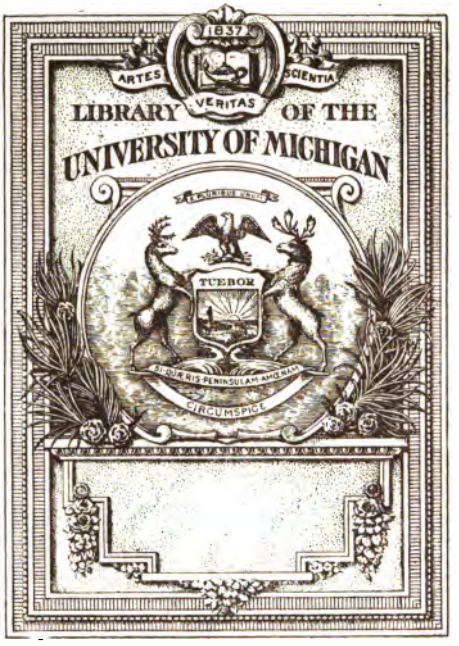

A Brief History Of Taxation In Virginia

BY

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I. Colonial Taxation—A. The Beginnings.

The present system of taxation in Virginia is very much the same in principle as the system in the Virginia colony. It has grown in scope, but it is not greatly altered in fundamentals. This fact makes a brief review of colonial taxation of more interest and value to-day than merely a bit of ancient record, for it will serve partially to explain the reason of the methods of obtaining revenue for State purposes to-day.

Taxation as a governmental function did not exist in the Virginia colony during the period from 1607 to 1619. During this time, there was no government in the ordinary sense of the word, for the colony was in the hands of a stock company composed of London merchants and English statesmen, who had undertaken the enterprise, some for the purpose of establishing a community for persecuted and disaffected persons in England, and others as a purely business enterprise by which it was hoped that the finding of gold, the founding of industries and the growth of a new commerce would bring to them substantial return. The civil affairs, therefore, of the little community which partly existed and partly starved in the wilds of the Virginia forests, were administered in very much the same way as a lumber company would at the present time manage one of its camps. The control of the community was in the hands of a board of six councillors appointed according to the terms of a charter granted for business purposes to a stock company.

With the assembling of the first House of Burgesses, in 1619, however, there sprang into existence a government, and when the charter of the London Company was annulled by the King in 1624, this government was the only one that existed in the colony. Almost immediately came expenses to be met, and the necessity for a budget, which entailed a system of revenue. A conflict arose between the company as an industrial organization and the colonists who composed the body politic during the five years after the calling of the

burgesses, and one of the reasons for the fall of the company was the very question of taxation. The council or board of directors of the company, attempted to dictate to the burgesses through their governor, or resident manager, what taxes should be levied by them, with the result that even at this early stage of the colony's history, the representatives of the people rebelled against being coerced in this fundamental manner.

With the passing of the control of the colony from a private stock company to a political government, a radical change was to be expected in its fiscal affairs. But while this change came, the development of the financial system of the colony was extremely slow, and the colonial budget bore few of the marks of governmental finance until the war against the Indians and French called for a greater revenue and hence a more extensive taxation. The tardiness of its development was in a large measure due to the hindrance put upon it by the continual strife between the royal governor and the assembly over the control—not of the management of the public moneys—but the power of taxation. From 1624 until 1629 there was an increasing tendency towards a distinct separation of the taxing powers of the representatives of the old sovereignty and the new—the king and the people. The salary of the governor at this time was paid out of the royal treasury, while compensation for the services of officers created by the assembly were defrayed by the passage of their own revenue acts. Thus two governmental budgets existed at one time. In 1639, however, the burgesses flatly asserted their exclusive rights of taxation, and paid the governor a salary equivalent to 1,000 pounds sterling, which was met by a poll tax of four pounds of tobacco.

Several attempts were subsequently made by the governors to take a hand in the fiscal management of the colony—so far as taxation went. Berkeley for example, suggested in 1667 that two members of his council be allowed to act in an advisory way with the assembly committee on taxation, but without avail. In 1683, the governor tried to levy a small tax independently of the burgesses; failing in this, he attempted to levy special license tax on lawyers and schoolmasters and on probate of wills, but the opposition was so strong that they were repealed the next year by royal order. This determined opposition on matters of taxation had its chief effect in that only such taxing was done as was necessary to provide revenue to meet the expenditure of the hour, and these perforce, were few and elementary.

So that taxation was not an oppressive thing these early days of the colony. Taxes were levied, too, for some special object. The revenue system of the United State at the present time, would have appalled our forefathers, not because of its magnitude alone, but be-

cause those upon whom the burden of paying the taxes rests are now to a very considerable extent ignorant of the exact purposes for which the money is to be used. For example, at the very beginning, a poll tax of one pound of tobacco was levied in 1619 to pay the salaries of the assembly officers; five pounds in 1623 for defense against the Indians; ten pounds in the same year for certain debts incurred for special and known purposes, and four pounds for the expense of a commissioner to England to represent the colony against the efforts of the royal party, including Capt. John Smith, who were trying to do all they could to injure the colony's political freedom.

Local taxation, was of course necessary as soon as the counties had established a judiciary system of justices of the peace and a county court. In 1623 every freeholder was required to deposit every year in the public granaries, one bushel of corn for this purpose. Furthermore, much of the expense of carrying on governmental affairs was met by a system of fees. The inspection of tobacco, for example, was paid for by the planters themselves in being required by acts of the assembly to meet a certain charge before their crop could be loaded on board the vessels which stood at the numerous wharves ready to carry it over the seas to satisfy the demand for the new "weed," fast becoming popular among the gentlemen of the old country. Even in times of war with the Indians, the burgesses enacted laws which required the colonists to support soldiers by private means, as in 1634 and 1679. Soon there came a distinction between indirect and direct taxes, as we shall see.

II. Colonial Taxation—B. Direct Taxes.

The fact that the Virginia colony was isolated permitted a class of taxes which is now reserved to the federal government. These were indirect taxes. We shall consider them in the third article on colonial taxation, but they are mentioned here to emphasize the existence of the two kinds of taxation so early in the history of colonial Virginia—direct and indirect taxes. The direct tax was chiefly in the form of poll tax, and the indirect in the shape of customs duties. Some idea of the extent of the former may be gathered from the following table: the taxation figures represent pounds of tobacco:

YEAR.	Tax.
1634	30
1654	30
1671	89
1684	47
1685-6	104
1687-91	18½

1692	13¾
1693-4	21
1696	21
1697	16
1698-9	19
1705	3¼
1710	9¾
1740	3
1750	3

The value in money of tobacco per pound decreased from 12 pence in 1640 to three pence in 1652, one and one-half pence in 1682, and one penny per pound thereafter.

The basis of taxation of polls was first in 1623 all "planters" over 18 years of age, but in 1630, the poll tax was extended to apply to all persons, that is, per "pole" the law not giving any definition as to sex or age, in order to gain more revenue to meet extraordinary expenses during the Indian wars. The number of "titheables"—*i. e.*, those who could be taxed—steadily increased from 2,000 in 1632 to 20,000 in 1697, and 82,000 in 1784, and the estimated revenue from the poll tax alone was as follows, amounts being given in pounds sterling:

YEAR.	Total.
1654	1,802
1671	3,250
1700	1,333
1740	790
1755	1,075

As these statistics show, the poll tax declined in importance toward the middle of the eighteenth century, although the expenses of government necessarily increased.

The causes of this decline were two—an economical and a political. The first lay in a change in the ownership of land, the small proprietorships inaugurated under the methods of the London company having given way to large plantations owned by a few proprietors. A change had also occurred in the character of the labor employed. from the shiftless indentured whites to negro slaves, who, on account of their adaptability to the climatic and labor conditions, were, by far the most suitable. This resulted in a population upon each plantation, the servile part of which was considered the personal property of the plantation owner, and whose poll tax was a considerable item of expense. Since this landed class constituted for the most

part the membership of the house of burgesses, we find many statutes and resolutions condemning this form of taxation, and seeking a remedy in indirect taxes, such as an export tax on tobacco. The tenants and small farmers also favored some other form of taxation, opposing the poll tax on the ground of inequality from the point of ability to pay.

On the other hand, the political motive for discouraging the poll tax was characteristic of the governor and his council, who hoped to institute proper qualifications for suffrage and thus deprive the class of society most dangerous to royal interests, the small farmers, tenants, mechanics, of political power—a motive which cannot but suggest one reason for the present poll tax requirements in Virginia. But the very fact that conflicting interests at that time seemed to be unanimous against this form of taxation, and the difficulty of coming to any conclusion as to any other form of taxation, as well as the inadequacy of other forms to provide all of the necessary revenue, served to continue its existence.

A land and property tax was imposed in 1645 as a result of widespread opposition among the poorer classes to the poll tax, which had been a particularly heavy burden upon them during an Indian outbreak. This act provided for a levy of four-tenths of a pound of tobacco for every hundred acres of land, and sundry other taxes upon cattle and sheep, but it was merely supplementary to an undiminished poll tax and was repealed in 1648, its object being merely to appease the popular demand, as it failed to gain any considerable amount of revenue. A later proposal for a land tax was made in 1663 by the governor and his council, but in vain; and the excessive poll tax in 1670 and the years that followed, as well as the disenfranchisement of propertyless persons, led to a popular support of Bacon in his rebellion in 1676, which at least served to show the drift of public opinion.

Some special taxes were levied from time to time, such as sixpence a poll in 1705 upon all passengers in merchants until 1775 and in 1699, twenty shillings upon every new white servant that came into Virginia; but these produced too little revenue to be worthy of particular notice. So that, while diminished in extent, the poll tax continued to be the chief direct tax in Virginia prior to the outbreak of the French and Indian wars. It was without doubt, the most elastic form of taxation for so young a government, in that it could be adjusted the more easily, and it yielded the most revenue in the shortest time, while its collection was the least expensive and difficult.

III. Colonial Taxation—C. Indirect Taxes.

The agitation against the poll tax in Colonial Virginia was not entirely without results in use of indirect taxation. The Burgesses, opposed, as they were to this form of tax, were also against a land or property tax, since they thought that their own interests would be too directly affected. It is but natural, then, that they should turn to some indirect form of taxation, believing in the perennial fallacy that it would not fall upon themselves. In their first acts, passed about the middle of the seventeenth century, we come across expressions of their opinion of how "just and proportionate it will be to impose the same (tax) on our commodities made" and that "the prudence of all nations hath provided for the defraying of the publique necessary charges rather by laying an imposition upon the adventurer for the staple commodities than by taxing the persons of the inhabitants."

The "commoditie" uppermost in the minds of all, was of course, tobacco, and it was the first to be indirectly taxed. An export duty of one shilling per hogshead was levied in 1657, but this was repealed in the following year on account of the difficulty experienced in its collection, and a prohibitive duty of ten shillings per hogshead was imposed on all tobacco not exported to England—a measure in conformity to the policy of the mother country toward Holland and similar to the principle underlying the navigation acts. In 1661, a duty of two shillings per hogshead was imposed, and various supplementary acts providing for its collection were passed. This was distinctly for purposes of gaining revenue, and was re-enacted in 1705 and so continued, its increase being prevented by the effects of the navigation acts, the heavy freight of six pounds sterling per hogshead and the burdensome import tax of six pence per pound levied in England. The decrease in the value of tobacco already shown in a foregoing table, was partially met by gradually increasing the weight of the hogshead from 500 to 1,000 pounds—a measure which did not of course lessen the burden of the import tax in England. The fiscal importance of this tax may be seen in the following table, the amount of revenue being stated in pounds sterling:

YEAR.	Hogshead Exported.	Revenue Pounds Sterling.
1671	15,000	1.500
1700	30,000	3,000
1740	30,000	3,000
1750	50,000	5,000
1760	60,000	5,000
1770	70,000	7,000

Although the records of the expenditures of the Virginia colony are incomplete, and the real fiscal importance of the export tax on tobacco cannot be exactly known, still the decrease in the importance of the poll tax may be compared with the increase in the amount of this tax, and its significance is clear.

The policy of indirect taxation was further carried into effect by the imposition, upon the recommendation of Governor Effingham, of an import duty of three pence per gallon on all spirits in 1672, which was continued for twenty years, and yielded about 600 pounds sterling per annum. Previous to this, an important duty of six pence per gallon on rum and a penny per pound on sugar had been levied as early as 1661, but it was repealed in the year after it was passed. In 1691, four pence per gallon on all spirits imported in foreign vessels was imposed, together with a rate of two pence on that imported in vessels owned by Virginians, and no duty at all for imported spirits in vessels built in Virginia—clearly a measure for the encouragement of shipbuilding in the colony.

Taxation of imports was extremely haphazard, from the modern standpoint at least. A duty was levied here and there without much idea of a system in which one kind of taxes would be recognized as bearing a relation to another. Nowadays, we grow excited or cold, as the case may be, over "Schedule K" and wax eloquent over the "metal" schedule, but "schedules" in the seventeenth century were unheard of, and while they existed in fact in the early part of the eighteenth century, our cavalier forefathers in Virginia would have taken any mention of "Schedule K" in taxation to mean a new kind of disloyalty to the king, unless, as it always happens, the schedule is the family budget. Then in 1776, as well as in 1913, we were as ready to speak up.

But of the method of classification of taxes on imports, we shall see something later.

IV. Colonial Taxation—D. The First Classification of Import Taxes in the New World.

As has been shown before, the acts of the assembly levying taxes were passed more on the principle of meeting certain regular or unusual demands upon the treasury than according to any regular plan which in modern legislation is termed schedules. There would be a different act for each levy, and excepting the poll tax and afterwards export tax on tobacco, levies were made for particular purposes at irregular times. In other words, taxation, so far as the form of the acts was concerned, was not according to a very scientific schedule. In 1695, however, there was passed a general revenue

and tariff act which might be compared with acts of Congress in form. This was the first classification of import duties ever made in a tax act in the New World. For the purpose of making this point clearer, these articles are classified below according to the duties put upon them, the rest of the classification being contained in the act itself. This act was as follows:

Class A—Rum, brandy, spirits, six pence per gallon. (From the West Indies four pence per gallon.)
Class B—Wines, four pence per gallon.
C—Cidar, ale, one penny per gallon.

This act was to continue in force until 1707, but beer was added to Class C in 1699, and the act was renewed in 1705, and amended so that those of Class A and B were to be taxed three pence per gallon, and those of Class C to be continued at the same rates, for the addition of one penny was to be added for a period of twenty years for the purpose of affording a revenue for the new College of William and Mary. In 1745 practically the old rates of 1695 were restored in order to afford funds for rebuilding the capitol at Williamsburg, which had been destroyed by fire. The total revenue from the tax on liquors during the first half of the eighteenth century is variously estimated from 600 to 1,000 pounds sterling.

In addition to the indirect taxation already mentioned, export duties were levied on hides, wool and iron, and import duties on slaves. Certain dues on ships coming in and going out of the regular harbors were charged in proportion to the amount of their tonnage. But none of these last levies ever amounted to very much from the standpoint of fiscal importance. They serve to show the direction in which taxation took, and unquestionably gave a suggestion as to future taxation under the later days of the colony and the early years of the American nation.

Exportation of hides was prohibited until 1691 in order that leather could be supplied for home consumption at reasonable prices. In that year, a tax of one shilling per raw hide, two shillings per tanned hide, eight pence per buckskin, five pence per doeskin, six pence per pound of wool, and one penny per pound of iron were imposed and continued practically at the same rates during the remainder of the colonial period, occasional slight advances being made from time to time. The proceeds of these taxes were devoted exclusively to the maintenance of William and Mary College, and did not enter into the budget of the colony; the import duty on slaves, too, was not imposed until the beginning of the eighteenth century, if we except the regular immigration fees upon all newcomers. A tax of

two shillings was imposed in 1699 upon every negro imported, which was raised in 1710 to five pounds sterling upon every negro imported by water. This act expired in 1719. Efforts to renew this form of tax were unsuccessful until 1782, when an *ad valorem* duty of five per cent. to be paid by the purchaser, was imposed. This was raised to ten per cent. in 1740, the revenue from which was to be used in aiding the crown in the war against Spain, but it was reduced to the old rate a few years later.

Tonnage duties were imposed as early as 1831, when a barrel of gunpowder and ten iron shot were exacted from every vessel coming into port for each hundred tons. This was changed later to one-fourth of a pound of powder per ton, because of the low tonnage of the vessels. The purpose of these "fort" or "castle" duties, as they were called, was to provide the forts with ammunition, and as the number of forts increased, the duty was enhanced, but finally were regarded as mere fees for the governors. Besides the "castle" duties, each ship had to pay two shillings sixpence for entry, the same for clearing and the same for license to trade, making a total of seven shillings sixpence. "Cocquet" (custom house certificates) rates were a half penny per hogshead for bills of lading below twenty hogsheads; if above, twelve pence for each certificate. Evidently these were more of the nature of fees than of taxes, and so far as can be known, did not enter into the fiscal management of the colony.

During the French and Indian war expenditures were of course, very heavy. These were partly met by appropriations from the English government, and partly by increased taxation. As has been before pointed out, the poll tax was the only form of taxation in which any considerable success in collection could be had, and most of the increased revenue was gained from this source. But not altogether so. The Virginia assembly experimented in other directions. and upon the statute books, we find various special taxes, such as those on coaches, chariots and fees from licensing and from suits at law. The effect of this war therefore, upon the tax system in Virginia was to leave it considerably broader in its scope than it was before, a result which was also a mark of the revolutionary war. Indirect taxation was of course put at an end when the federal constitution was adopted, and to a large extent the forms of direct taxation which had been employed during the colonial days of the State then formed the basis of her revenue system under the new regime.

V. Colonial Taxation—E. Some Conclusions That Apply to Present Conditions.

Since we have studied the musty records of the old Virginia colony primarily for the purpose of finding the real beginnings of the tax system which now exists in this State, it may be well to state some conclusions that appear undoubtedly manifest.

To the reader of the bare facts as gleaned from the record, this thought must come with unmistakable force:

> That the general tax system we now have—its method or possibly its absence of method— is in principle patterned on the rudimentary tax system which existed over two hundred years ago.

The tax system of the Virginia colony was perhaps the best suited system to an infant government. At any rate, it was the only system which was possible under the circumstances. There was small need for revenue in comparison with the elaborate governmental functions of the Virginia of to-day. Taxes were levied for the most part for some particular and known purpose, and were obtained from the most available sources without thought of scientific principles of practice. To-day a Commonwealth with a population of over 2,000,000 people; with an elaborate school system, an administration widely projecting and regulating activities unthought of two centuries ago; under modern industrial and commercial conditions—still adheres to a method of sustenance which barely sufficed for its needs when it was in its swaddling clothes. Taxation has greatly been extended, it is true; but the same principle of imposing a new tax or changing the rate of an old tax to meet the exigencies of the occasion, without regard to incidence or economic results, is followed by a glorious disregard of what the studies of centuries of taxation have evolved.

This is the fundamental lesson that we may learn from the study of the beginnings of taxation in Virginia, so far as it is applicable to present conditions. As a matter of historical interest, there are some other conclusions which may be summarized as follows: They have probably already suggested themselves to the reader:

First, that there was present—in a rudimentary form perhaps—the principles of opportunism in taxation. The purposes of taxation, from a strictly modern and scientific point of view, is to provide revenue. We Americans have inherited it, not from Alexander Hamilton, who is often called the founder of protectionism in this country, but from our Virginia ancestors, and they in turn applied a principle with which they had been familiar for a long time. Eng-

land had long been ruled by statesmen who believed in what was known as merchantilism—a system by which home industries were so regulated as to cause as large a quantity of money to be retained in the home country as possible. This was one of the causes of colonization itself, and the fact that it had been bred in all Englishmen afterwards caused them on both sides of the Atlantic to come to blows. Thus it is not a surprising thing when we find, as we have seen already, that our Virginia ancestors passed tariff acts for the protection of shipbuilding or the control of the price of leather. It was perfectly natural, and the continuance of that policy by the federal government in protectionism up to recent times to a point far beyond its usefulness may be said to have here a precedent, at least, if not its actual origin.

Second, that the principle of self-taxation was very early made evident. Taxation without representation was not a new thing when Patrick Henry proclaimed against it in fervid tones, or when the Boston tea party took place. It too, was a violation of a right which had long been ingrained in the stubborn English blood, and it came to the surface here in America nearly two centuries before the solemn gentlemen in Independence Hall came to a conclusion about a declaration of those old and oft-tested rights.

Lastly, that even in the very beginning of fiscal government in America, there were traces of what is now acknowledged to be a crying evil in our methods of taxation—a lack of equality in adjusting the burden of revenue to the payers of the taxes. Localities, interests and individuals favored or opposed the land tax, the indirect tax, the poll tax, the license tax and so on, as it pleased their own affairs, just as the fight for an advantage or a privilege has gone on ever since.

In several succeeding articles the history of the license tax will be briefly reviewed, and property taxation as well as other forms of taxes will be similarly treated in an attempt to picture the development of colonial taxation during the antebellum period into a system of State Taxation.

VI. Licenses in 1789-1860—*A. Under the Constitution of* 1789.

The license tax in Virginia was one of the chief methods of obtaining revenue prevailing at the time of the adoption of the federal constitution. It was a legacy from the colonial financial system, and in general, until the adoption of a new State Constitution in 1851, it was characterized by the colonial classification—or rather lack of classification. The only changes were a gradual growth of the list of exceptions to the general tax on "merchants" and an extension of license to other forms of business.

Until 1807, the only license taxes levied were on merchants and ordinaries. There was no further change until 1814, when the necessity for raising funds to meet the assumption by the State government of the 1812 war tax caused all forms of taxation to be extended, and all existing taxes to be raised, except a tax on peddlers. In 1880, retail merchants were taxed $15 per annum regardless of the character of the size of their business, wholesale merchants were taxed $40 in the same manner. This rate also continued until 1814. The flat tax on ordinaries of $12.50 in 1800 was changed to a tax of $5 per $100 rental, or what amounted to 5 per cent. of profits, in 1807, and so was allowed to remain until 1814. The first tax on peddlers was levied in 1807 at a flat annual rate of $30, which also continued until 1814.

The assumption of the 1812 war tax by the State government caused a considerable increase in the extent and in the rate of the taxation of property as we have already seen. The same effect was seen in the license tax schedule. Rates on merchants, both retail and wholesale, and peddlers, were doubled. The rate on ordinaries was made to a $8.88 flat license tax. In addition, a tax of $27 per annum was levied on peddlers of tin goods (which was really a reduction, since they had previously to pay $30); of $20 on retail druggists; of $80 on wholesale druggists; of $25 on auctioneers; of 2/9 of one per cent. to one-half of one per cent. of gross sales at auction according to the amounts; of $40 on tobacco dealers; of the price of five annual subscriptions on every newspaper; of two and three-fourths per cent. on the "rental" of mills and coal pits, and one and one-third per cent. on tan yards, forges and furnaces; of $12.50 per annum on physicians, $7 to $30 on attorneys according to the amount of their fees, and one and one-third per cent. of the fees of the clerks of county courts; of $67 a year on all lotteries, and of $5 on all shows for every different county in which they exhibited. It will be seen that in some cases, such as the license of the goods peddlers and retail merchants, the tax was merely exceptions to the general tax on merchants. In the other instances, distinctly new taxes were levied.

The license taxes levied in 1814 remained in force until the assembly, heeding the protests of the taxed businesses and realizing that the urgent necessity for higher taxes had passed, revoked all the new taxes, except those on tin goods, peddlers, lotteries and "shows," and greatly reduced the rest. Retail merchants of all kinds were taxed $20; wholesale merchants, $60; peddlers, $40; tin goods peddlers, $20; and ordinaries, $7. The taxes on lotteries remained the same, while the tax on shows was made $15 per year, which permitted them to exhibit anywhere without an additional tax—a

considerable reduction. In 1820 the taxes on peddlers, and peddlers of tin goods were double those of 1818; otherwise license taxes remained without change until 1824. The assembly at this session reduced the tax on peddlers from $80 per annum to $16, and on tin goods peddlers to $10, and raised the tax from $15 to $25 per annum on shows. The taxes on retail and wholesale merchants, ordinaries and lotteries were not changed from that of 1818 and 1820, but two new forms of business was taxed, and an old tax of 1814 was revived. The latter was on auctioneers, of whom a tax of $60 per annum was required. The new business taxed were venders of silverware at $20 annually and general brokers at $60 annually. In 1829, lotteries were scheduled in two classes—general lotteries, paying the old tax of $300, and lotteries authorized by the State, paying a tax of $60. The following year, some more changes are noted in the tax acts. Peddlers paid $20 yearly, auctioneers were not taxed, ordinaries had to pay $18 annually besides seven per cent. of their rental, boarding houses were taxed the nominal sum of $2 per annum, shows had to pay $30, general lotteries were taxed at $500 and lotteries authorized by the State one per cent. of their receipts.

VII. Licenses in 1789-1860—*B. Under the Constitution of* 1830.

No changes in the rate or the extent of the license tax again appear until 1838, and the changes then were unimportant.

Peddler's licenses were increased to $25 and the tax on lotteries authorized by the State was changed from the *ad valorem* form back to the old specific method and a flat rate of $69 was imposed. Another class of peddlers was recognized, that of clock peddlers, who were taxed $100 per year. This tax remained in force until 1844, except for one year, 1841. In 1841 auctioneers paid a graduated tax scaled according to the amount of their annual sales, ranging from $25 to $60. Wholesale merchants in the same act were made to pay $75 instead of the $60 tax which had prevailed since 1818, but retail merchant's licenses were not changed. Peddlers of tin goods paid $30 according to the levy of 1841. General broker's licenses were increased from $60 to $200. Ordinaries paid $20 annually in addition to the regular seven per cent. of rental, and boarding houses were recognized as a source of revenue by increasing the nominal tax of $2 to $3 per annum and five per cent. of rental. Shows were made to pay $40 a year, with the same privilege of being allowed to exhibit anywhere in the State without further taxation by the State government. The tax on private lotteries was increased to $1,000 and on public (*i. e.,* authorized by the State) to $500.

The following year insurance offices and agents were made to pay a tax of $100 yearly to the State for the first time.

In 1843, the method of a graduated license tax, levied in 1841 upon auctioneers, was extended to retail and wholesale merchants and no distinction in rate was made between these two classes of business. They were taxed from $20 to $100, the rate being based on gross sales, and this tax prevailed until the first assembly under the new constitution of 1851 passed its tax act for the year. In 1843, peddlers were taxed $100, and the tax of $100 on clock peddlers was revived. Liquor dealers were taxed specifically for the first time in the history of the State and at a rate of $15 annually. The same is true of toll bridges and ferries, which, in contrast to the semi-public highway improvement of the time, were operated chiefly by private individuals of private corporations. The State exacted a license tax of one and a half per cent. of their gross receipts from tolls and fares. Shows were taxed $60. The license tax on physicians and attorneys, which had been levied only in one period before (1814-1818), was revived. Physicians' licenses cost $10 per annum and that of attorneys $20.

In 1844, some rearrangements of the rates were effected, but with the exception of a tax of $3 per week on theatres while open, no new taxes were levied. The taxes on peddlers were greatly increased. Peddlers of miscellaneous wares were taxed $50, tin goods peddlers $10, and clock peddlers $50 for each county in which they operated—a measure obviously designed to protect the merchants, as complaints of the increasing number of peripatetic venders appear in the public prints. Auctioneers were also doing a thriving business and the tax on them was increased to $75 up to $500, scaled according to the amount of their sales, but at a higher rate than that on merchants in order to prevent the too strong competition with the regular merchants. Ordinaries, too, were scaled, but the highest rate, $20, was the same as the flat license tax levied, while some paid as low as $5 yearly for the privilege of being the gathering place of the village gossips. Physicians were taxed at exactly the same rate as ordinaries, the graduated tax being based on the income from their profession, while attorneys were not taxed at all. Shows were heavily taxed; a fee of $10 for every performance was required. The taxes levied in 1844 remained without change until the assembly's session of 1853-'54 after the adoption of the new Constitution of 1851.

VIII. Licenses, 1789-1860—*C. The Extension of the Tax Under the Constitution of* 1851.

The Constitution of 1851 did not contain any stipulations as to the method or the extent of the license tax beyond a general provision forbidding the genral assembly to levy any tax "on the capital invested in the trade or business in respect to which the license so taxed is issued." Hence we are prepared to see that no modification in the principle of the license tax was contemplated by those who met to adjust the organic law to changed conditions. We do, however, at once perceive two important developments: (1) An extension of the license tax in the tax act passed by the assemblies under the new constitution; (2) a decided tendency to use the methods of a graduated tax to a larger degree during the decade from 1850 to 1860.

First, as regards the extension of the tax. Stockbrokers were taxed for the first time by the session of 1853-'54 at a flat rate of $150 per annum; this was increased in 1859-'60 to $250. Dealers in tin stock and lumber and coal dealers were taxed $20 for the first year and for each succeeding year they were taxed one per cent. of the gross sales. Merchant tailors were taxed the same for the first year; and thereafter were taxed as other merchants. "Quack medicine dealers," as patent medicine dealers were styled, were added to the list of taxable business at a graduated rate of $10 to $20 per annum. In 1855-'56 this tax was increased, ranging from $25 to $50. Shipbrokers for foreign countries were also taxed in 1853-'54 and thereafter at the rate of $20 up, scaled according to the size of the town in which they operated. Restaurants were taxed at 10 per cent. of the first $100 rental and seven and one-half per cent. of all over that amount. This tax was increased to fifteen per cent. for the first $100 rental and ten per cent. on all over by the next assembly. Porter and ale dealers were taxed 20 per cent. of the first $100 rental and 7½ per cent. on all over $100. In 1855-'56 the latter rate was doubled. In 1859-'60 this tax was changed to a flat license of $20 for the first year's business and one per cent. of gross sales thereafter. Real estate agents, and "agents for negro employment" were among the new businesses requiring an annual licnse tax in 1853-54, the license for these two classes being $10 each. This rate was increased to $25 by the assembly for 1855-'56 for both. Book agents fared more easily at first. Their license annually cost them $5 until 1855-'56, when $25 was levied. But by the same law, the agent who had not been a resident of the State two years, and of the particular county in which he operated one year, was taxed $200 yearly. Owners of jackasses and stallions were taxed $10 annually and more, according to the value of the animals.

Livery stables were taxed fifty cents per stall in 1853-'54 for the first time, and this tax was doubled two years later. Distillers were taxed on a graduate scale according to the time of operation. The tax during the first year of operation was from $10 to $50, according to the number of months. For the second year and thereafter, one-fourth of one per cent. of gross sales were added. The increased license taxes up to this time, in 1851 crystallized into a growing sentiment against lotteries, which itself is reflected in the provision forbidding all lotteries whatsoever; hence this particular tax does not appear any longer in the list of licenses.

There was under the new constitution, a considerable increase in the number of businesses taxed. It is possible, though it is difficult to ascertain exactly, that some of the businesses requiring a separate license tax had previously been taxed before under the somewhat general tax on "merchants;" but this is doubtful and if it occurred at all, was restricted to two or three instances. For the tax on merchants was levied on that class of business known as "general merchandise" and that enterprise commonly called a "general store," which carried in stock not only food, but dry goods, and which flourished at the cross roads and villages as well as in the larger towns. The only exception to this was the additional tax placed upon liquor dealers. Many of the general stores in the rural sections sold liquors, and the merchants were taxed for doing a double business.

The use of the graduated license tax, which came into use after 1851, was another important development.

IX. Licenses, 1789-1860—*D. The Tendency to Use the Graduated License Tax in Various Forms.*

In addition to the development of the license tax in the broadening of its scope, there was another important development in this form of taxation after the constitution of 1851 went into effect. This was a development in the method of the tax—the tendency to the greater use of the graduated license tax. Thus the license tax formed the basis in a large degree of the modern percentage license or franchise tax on the earnings of corporations, although the earnings tax was first used in the decade prior to the civil war.

We have already seen that the graduated license tax had before 1850 been adopted in certain instances, notably in the licensing of retail and wholesale merchants, ordinaries and auctioneers. But the range of the graduated tax was small and it was largely in obedience to the development of enterprise that businesses with large gross incomes should pay a large revenue to the State than smaller concerns. It had not progressed far; in fact, it is rather strange that so little

distinction was made in the amount of tribute paid by the user of ten talents and that paid by the one of five; certainly there was relatively little mercy on the investor of a single talent.

However that may have been, there was a decided change in the method of the license tax after the constitution of 1851 was adopted. Practically all taxes were raised, it is true, but by means of the graduated method the license tax was designed to be burdensome in proportion to ability to bear.

The graduated method was applied to merchants, peddlers of all kinds, auctioneers, liquor dealers, dealers in live stock, merchant tailors, lumber and coal houses, insurance offices (agents) and restaurants. It was even more extended by the assemblies of 1855-'56 and 1859-'60. All of these graduations may, for the sake of clearness, be classed into three varieties—(a) that which levied a specific tax on every succeeding amount of sales definitely specified; (b) that which levied a specific tax up to a given minimum and an *ad valorem* or percentage tax on all sales above the minimum; (c) that in which the idea of time was emphasized—the levying of a nominal tax on the business during its first year of existence and the regular merchant or an otherwise specified, graduate or percentage tax for succeeding years; (d) that in which the size of the town in which the business was located determined the rate of tax.

The most complete example of the first variety is the tax on merchants, which may be best set forth in the following table showing the graduated scale according to the amount of gross sales and the rates levied by the general assemblies of 1853-'54 and 1855-'56:

TAX ON MERCHANTS.

GROSS SALES.	Rate of License Tax.	
	1853–54	1855–56
Up to $1,000	$ 10 00	$ 20 00
$ 1,000 to $ 1,500	72 00	24 00
2,500 to 5,000	16 00	32 00
1,500 to 2,500	16 00	32 00
2,500 to 5,000	24 00	48 00
10,000 to 15,000	48 00	96 00
15,000 to 20,000	56 00	112 00
20,000 to 30,000	70 00	140 00
30,000 to 50,000	104 00	208 00†
50,000 to 75,000	128 00	.....
75,000 and up	160 00*	.....

*And $18 for each additional $10,000 of sales.
†And $100 for each additional $10,000 of sales.

The tax levied by the assembly of 1855-'56 remained unchanged until after 1860, when with the imminence of war, the tax on merchants, along with all other taxes, was raised to meet the expenses of hostile preparations.

It requires but a glance to see the wide difference between a graduated tax such as the ones indicated in the table above and the flat rate of $20 for retail merchants and of $74 for wholesale merchants which prevailed, for example, from 1841 to 1843, as has been already pointed out. Even though the graduated method was applied to merchants' licenses in 1843, it was limited in extent, ranging from $20 to $100, but serving undoubtedly as an experience which formed a basis for its extension after the small farmers and merchants in the small towns and hamlets in the western sections of the State had secured their long-fought-for control of the legislature under the terms of the constitution of 1851.

The other three varieties of license taxes embodied the graduated scale principle. One of these, as already indicated, was the levying of a specific flat rate on dealers in goods and services as long as the gross receipts did not exceed a stated amount. On all receipts above this limit, an additional *ad valorem* tax was levied. Thus the tax of ordinaries levied by the assembly of 1853-'54 was 15 per cent. of $200 rental and an additional tax of 10 per cent. of all rental over $200. The third peculiar form was that which a minimum tax was levied until the business had been in existence for a stipulated length of time when a higher tax became operative. For instance the tax on dealers in tobacco; a license tax of $20 was charged under the act of 1853-'54 for the first year of business. Thereafter the regular tax for dealers in products grown in the United States was applied. Liquor dealers, to cite another example, were taxed by the assembly of 1859-'60 at the flat rate of $40 until after the first year, when to this tax was added a tax of one-half of one per cent on gross receipts. The fourth form was the use of the size of the market as a basis for the scale of the tax. Thus bank note brokers were charged from $500 to $750 annually for a license to operate. In this instance the $500 tax was levied on bank note brokers in cities less than 15,000 population; in larger cities, $750 was charged. Foreign insurance company agencies were licensed in the same manner by the assembly of 1853-'54; by the two succeeding assemblies the size of the town or city was not considered. Auctioneer's licenses combined three ideas—amount of sales, time and size of locality. The assembly of 1853-'54 levied a graduated tax ranging from $32 to $250, scaled according to the population of the town or city for the first year of business, and a graduated

kinds
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tax of $20 to $500 thereafter, scaled according to the amount of sales. This tax prevailed until the Civil War.

In addition to these four fairly well-defined principles on which graduated license taxes were levied, there were also the old flat or specific and the *ad valorem,* ungraduated taxes. As has been indicated above, there were instances of combinations of two and even three of these half dozen methods in a single set of licenses.

X. Licenses, 1789-1860—*E. How a National Tariff Policy Found Expression in Virginia State Taxation.*

Although the insertion of the topic suggested in the above title may interrupt the continuity of our study of the development of the present license tax in Virginia, and of the real beginnings of the corporation tax, which we shall see, grew out of the license tax, I feel that it is of more than passing interest to note two particular licenses taxes and a special license tax provision. To those familiar with the history of sectionalism in ante-bellum Virginia, it will doubtless be an interesting bit of evidence that has not been treated of in Virginia historical writings; while to observers and students of the relation of State to federal government, the apparent attempt on the part of a State to take part in the enforcement of a national tariff policy may be a sidelight worthy of recording.

These two license taxes and this provision, moreover, were not only illustrative of the tendency to extend the license tax and to use it for a purpose other than that of obtaining revenue, as it was seen in the increase of taxes on lotteries prior to the constitution of 1851, but they exhibit the sectionalism within Virginia on national political questions. The two taxes to which reference is made are: (1) A tax upon merchants and auctioneers who sold articles of domestic growth—*i. e.,* growth in the United States. Such articles included lumber, coal and tobacco, which are specifically mentioned. A tax of $20 was imposed upon dealers in commodities of this character for their first year's business; for succeeding years, an annual tax of one per cent. of gross sales was imposed. The tax was designed to encourage the sale of goods of domestic production, since, as we shall see later on, it was considerably lower than the license tax required of those dealing in other commodities; (2) a tax on "rough frame work" as the schedule expressed it, was designed to encourage the importation from foreign countries of articles in an unfinished state of manufacture to be sold here later in a completed state. This tax was $30 annually, a considerably lower tax than the regular tax on merchants, auctioneers and other general dealers.

We see no mention of these two taxes in the tax laws thereafter, and

it is presumable that they were no longer levied after the tax act of the 1855-'56 session of the assembly went into effect. But that assembly included in its tax act a provision which is extremely interesting. It was provided that if any goods sold by a dealer—the gross sales being the basis for the graduated tax, as we shall see—were imported goods, a reduction was to be made in the amount of taxes paid on their sale equal to the duties paid the federal customs officers. The purpose of this, as is quite evident, was to nullify the effect of the existing federal tariff laws.

Unfortunately, the records, official or in the newspapers, are not full enough to afford an explanation of the apparently wide differences in purposes that actuated the provisions of the tax act of 1853-'54 and that of 1855-'56. And yet there is in them all a similarity of purpose. The controlling element in the legislatures under the constitution of 1851, prior to the Civil War, was composed of representatives of the Western section of the State, a large portion of which is now West Virginia, who were opposed to the principle of protection. The Eastern section of Virginia was inclined to favor protection. For instance, President Tyler's opposition ten years before to the Whig tariff program caused many of his followers to desert him. There is evidence of a decided nature in the press of the day that Eastern Virginians at that time were in favor of higher tariff duties and citizens of Richmond and its vicinity signed a petition to Congress asking for a higher tariff. Again, nearly fifteen years later, there is evidence that, even under the distinctly non-protectionistic tariff of 1846, the Western section of the State was in favor of a still lower tariff. Especially was this true, as Professor Ambler points out in his book on Sectionalism in Virginia (p. 305) of those who were animated by the broad principles laid down by Jefferson, and of those who were actuated by the more practical question of a cheap iron to be used in the construction of railroads in the internal improvement schemes of the times. These were the victors in the campaign of 1855, in which Henry A. Wise killed Knownothingism in Virginia, and were the dominant party in the legislative halls.

In the light of this fact, then, we may interpret the license tax provisions of 1853-'54 as expressions of a consistent policy—that of encouraging home production without the use of a protective tariff—which was further carried out in the provisions of 1855-'56 more directly in an effort to nullify the tariff. What effect any of these provisions had upon the revenue of Virginia cannot be ascertained from the records. It is of course, absurd to imagine that they had any effect on the prices of the commodities concerned. In fact, other than to lighten the license tax to a degree impossible to be known, the

provisions were nothing more than an expression of the views of the dominant faction in Virgnia at the time on a national question which had practically ceased to be of interest nationally, but upon which the newly empowered faction in Virginia first had an opportunity to record, although futilely, its opinion.

XI. License, 1789-1860—*F. The Operation of the Tax.*

In the accompanying table is shown the receipts from licenses from 1825 to 1855 so far as they are specified in the official reports in the State archives from which it is compiled. Prior to 1822, no records of receipts specified according to licenses are available, so far as I am able to ascertain. After that date, the years selected are typical to show the operation of the new tax laws exacted from one to three years immediately preceding. The table is interesting in that it not only shows the extension of the license tax itself, but that its chief revenue producing licenses are clearly exhibited. It will be seen, of course, that the largest portion of the revenue from licenses came from the tax on merchants and auctioneers and ordinaries.

To show the relative importance of the license taxes as means of producing revenue, the following table compiled from the official reports of the State auditor and State treasurer for the years designated, is pertinent:

TABLE SHOWING RECEIPTS FROM LICENSES AND ALL OTHER TAXES AND PERCENTAGE OF LICENSES TO THE TOTAL RECEIPTS, 1794-1860.

YEAR.	From License Taxes.	Total Receipts.	Per Cent. from Licenses.
1794	$ 9,955	$ 129,754	7.6
1809	19,371	301,061	6.4
1816	24,200	520,200	4.6
1821	63,019	442,332	14.3
1822	66,383	407,459	15.5
1825	70,709	407,183	17.3
1833	96,863	380,969	25.4
1839	107,024	475,177	22.5
1840*a*	112,904	511,685	22.0
1844	145,295	693,324	21.1
1846	156,990	595,143	26.0
1848	184,443	645,631	28.5
1849	168,640	621,490	26.9
1851	238,719	877,795	27.2
1855	314,408	1,409,563	22.3
1859	509,646	3,120,922	16.9

*a*Based on assessed taxes, not actual receipts.

Having now in mind our consideration in the preceding articles of the rates and varieties of license taxes in Virginia prior to the War Between the States and with these statistics of receipts before us, it is now possible to give review of their operation.

It will be noted that there was a steady, but slow, increase in revenue from licenses from 1794 until about 1835. Then began an accelerated increase until the outbreak of the war. Relatively to receipts from all other taxes, license tax receipts showed a slight decline from 1794 until about 1816 and then began a rapid growth in the importance of license receipts until about 1835. Then followed another slightly sharper decline for a decade, then another increase for about five years, and finally a gradual lessening in relative importance in spite of greatly increased revenue from licenses, until the period ends with the beginning of the war.

In interpreting the outline, it is to be noted that license tax rates were practically unchanged until 1814, when they were trebled. Before 1814 only merchants and ordinaries were taxed; in 1814 a large number of new licenses were imposed to secure a greater revenue with which to provide for Virginia's portion of the 1812 war debt, which the State government had assumed.

A large number of these new licenses were retained practically without noteworthy change in rates until 1844 when some taxes, notably those on merchants, were increased, and revenues showed a large increase both actually and relatively to other tax receipts.

After the constitution of 1851 became effective, more licenses were levied and the principal existing license taxes were raised. The revenue from licenses increased with greater acceleration than ever before, but its percentage of all revenue decreased. This was due to the fact that the constitution of 1851 levied taxes on "all property" and greatly increased the tax on real property, personal property, and on corporations and other sources.

Thus the naturally steady growth of revenue from licenses due to the growth in number and size of businesses was little disturbed throughout the ante-bellum period; the changes in relative importance of the license tax was due to the growing importance of other taxes as revenue producers. This seems to be fully borne out in the political history of the period in so far as it affected the financial policy of the State to a very slight extent and hardly at all into the sectional warfare between the cismontane and transmontane political and social industrial divisions. The explanation for this is of course, apparent in the fact that the towns—there were no cities—in ante-bellum, Virginia, were scattered and small and had no particular influence. In the East, the tradesmen and shopkeeper followed the

lead of the planters. In the West, there was hardly any towns at all, and the issue at all times was between the small Western farmers and the large Eastern plantation owners. When the Western Virginians came into power, their share of the burden of revenue became relatively smaller.

LICENSE TAXES BEFORE THE CIVIL WAR.

Table Showing Receipts from License Taxes in Virginia, Specified in the Official Reports, for Various Years from 1822 to 1855.

LICENSES.	1825	1833	1839	1844	1847	1851	1855
Merchants and auctioneers	$ 47,646	$ 66,087	$ 76,041	$ 103,455	$ 108,164	$ 165,176	$ 214,622
Peddlers	2,092	3,415	2,675	3,594	5,351	7,813	5,249
Ordinary keepers	18,244	15,949	18,476	17,725	19,513	25,129	36,630
Private entertainment	1,784	3,212	2,538	3,611	3,574	4,224	7,231
Exhibitor's shows	939	2,310	1,170	360	8,854	1,716	3,086
Vendors of lottery tickets	.....	5,889	3,335	10,000	20,000	21,000	.....
Owners of studs	.....	.....	.....	1,835	2,991	3,540	3,850
Dentists	.....	.....	.....	4,684	4,970	6,762	11,022
Billiard tables	.....	.....	.....	30	10	70	.....
Tenpin alleys	.....	.....	.....	.....	2,099	1,930	2,395
Vendors of patent medicines	.....	.....	.....	.....	710	1,000	1,704
Attorneys	.....	.....	.....	.....	.....	355	550
Physicians	.....	.....	.....	.....	.....	.....	6,109
Public rooms	.....	.....	.....	.....	.....	.....	12,261
Coal and wood	.....	.....	.....	.....	.....	.....	453
Carriages	.....	.....	.....	.....	.....	.....	204
Feed stores	.....	.....	.....	.....	.....	.....	210
Lumber merchants	.....	.....	.....	.....	.....	.....	41
Private boarding houses	.....	.....	.....	.....	.....	.....	711
Cook shops	.....	.....	.....	.....	.....	.....	304
Totals	$ 70,709	$ 96,863	$ 107,024	$ 145,295	$ 168,640	$ 238,917	$ 314,408

In addition to the receipts tabulated above, which are included in the total, for the year 1855 are the following specified in the official reports: book agents, $203; livery stables, $458; merchants tailors, $1,428; distillers, $1,434; Daguerran artists, $1,054; rough frame work, $8; porter and ale manufacturers, $99; tobacco auctioneers, $25; land auctioneers, $30; pamphlet peddlers, $83; sellers of paints, $662; commission merchants, $25; agricultural provision dealers, $8; agents, $429.

XII. License Tax—G. The Origin and Development of the Present System.

Up to within a very few years of the adoption of the Constitution of 1851, the Virginia system of taxation was continued to the following methods:

Taxation of real property.

Taxation of a limited number of articles of personal property, including slaves.

Taxation of inheritances.

Licenses taxes.

The growth of the tax system prior to 1851, was in the license tax. Until the Constitution of 1851 put personal property on the same basis as realty property—and there was strong opposition to the taxation of personal property on the part of the richer Eastern planters, who controlled the Legislature, up to that time—the only room for expansion was in the direction of license; and shopkeepers and their kind in those days had not risen to the power or the dignity of the present-day business man. When the State government assumed the Virginia quota of the federal war of 1812, tax and more revenue was needed, the property taxes were nearly doubled, it is true; but the existing license taxes were not only greatly increased, but extended to other business never taxed before. And when the burden of internal improvements which the State had undertaken, pressed each year more heavily upon its treasury, the license tax was still further extended during the ante-bellum period.

The constitution of 1851 was framed by a convention in which for the first time, the small farms of the Middle and Western section of the State had the control, and the system of representation was extended so as to allow them to continue in control. We shall later on, when we come to the discussion of the development of the corporation tax and the property tax, see how they dealt with the extension of taxation in other directions. But in 1850, the policy of exacting a license tax from practically all well established businesses and professional vocations had been firmly established. Since that

time, this policy has simply been continued. It is unnecessary to enumerate the gradual additions to the license tax year by year. The multiplication of the kinds of service, be it mercantile, amusement or vocational, which has taken place in the growth of civilization since that time, has afforded the multiplication of opportunities for taxation for the license method. At present the State taxes practically all kinds of business, as do the localities with their increasing demand for revenues. With almost identical methods, the same system was in effect over a half century ago.

To summarize the history of the license tax in Virginia in a paragraph, then:

The license tax has grown with the development of the kinds of services that men render each other for remuneration. Practically unheard of in the Colonial period, it was first recognized as a source of revenue under the last of extraordinary demands upon the treasury in 1814, and thereafter became an increasingly important source of revenue during the period of sectional strife until 1851, because of the helplessness of those who were subjected to the license tax to resist the property owners and investors who refused to extend the taxation of personal property and of public service enterprises. But by that time it had become so well established that it remained a recognized method of obtaining revenue for State and local purposes. Its relative importance as a revenue producer has, of course, readily decreased. In 1848, license taxes, including liquor licenses, contributed 28.5 per cent. of the revenue of the State; in 1912 license taxes, including liquor licenses and dispensaries, contributed but 18.4 per cent. of the total State revenue. This is due to the growing importance of other sources of revenue, of course.

Before leaving the license tax, there is one other phase of its development which has not been touched upon in these articles, and which may be outlined in a very few words. This is the fact that practically all of the various classes of license taxes now distinguished were in use in the ante-bellum period. The mercantile license tax existed in the eighteenth century, and has continued without interruption. The "policed license"—a license for the privilege of carrying on a business requiring particular protection, or regarded as dangerous to the public welfare—did not come into existence until the movement against lotteries appeared. Lotteries were taxed as high as $300 in 1818; $500 in 1830; $1,000 in 1841, and prohibited after 1844—an unmistakable example of this form of license tax. There is little, if any, evidence, on the other hand, to indicate that the liquor license was a policed license before the Civil War. Liquor dealers and public houses, on the contrary, were not taxed as high as merchants as a general rule. The vocational license tax—

taxes on professional services—appeared as early as 1814, when physicians and lawyers and clerks of courts were taxed, but this was exceptional. The only other instances of this tax before 1850, was in 1843 and 1844, when doctors and attorneys were taxed, and in 1843, when attorneys were made to pay a tax. After 1850, the vocational license tax became an established form of the license tax.

During the Civil War, in license taxation as in every other form of taxation, every possible source of revenue was tried, but except for the precedents that were set, the Civil War had little or no effect on the development of the tax system. As I have already pointed out, the license tax system has been thoroughly established in principle before that time. Since the license tax may be properly regarded as a forerunner of the tax on that modern service rendering agency, the corporation, the next articles in this series, will briefly trace the history of the corporation tax in Virginia. The other forms of taxation, such as income, polls, inheritance, etc., will then be taken up, reserving for the concluding historical articles, the property tax. By placing, first, before the reader, of the data regarding the development of the license and other minor taxes the property tax, about which has centered so much of the discussion in the present movement for tax reform, can be viewed in a clearer light.

XIII. The Corporation Tax —A. The Earliest Taxation of Corporations in Virginia.

The term "corporation" is capable of being much misunderstood, and there is ample evidence in public discussions, that it is used within widely different meanings. By some, "corporations" are used to refer solely to what are differentiated in the minds of others as "trusts." By others "corporations" mean only railroad corporations. By still others, "corporations" are used in reference to public service corporations. There are doubtless other ways, in which the term is used, with varying degrees of inclusivenss.

While a "corporation" may mean anything to which that form of permission to exist known as a "charter" is given, whether it be a fishing club, or college fraternity, a family estate incorporated to dodge property taxation, or a university, a manufacturing enterprise, or a common carrier, it is legitimate for this discussion, I believe, first to limit the term "corporations" to aggregations of individuals, to whom is granted a charter for doing business—that is, for performing some kind of service or supplying some kind or

nodities for which remuneration is demanded and given.

I consider only those corporations whose purpose it is

to be or who are productive agencies. But there should be another limitation in terms. If corporations exist for the performance of some service of a general or public nature they are called public service corporations. Instances of these are street railways, steam railways, ferries, lighting companies, etc. If they exist for the performance of a private service, or service not generally used in the same way by individuals alike, or for the supplying of tangible commodities, they may be denominated private corporations. Instances of these are incorporated manufacturing enterprises, grocery stores and other incorporated mercantile businesses, and the like. The peculiar form of taxation known as the corporation tax is more commonly applied to the former of these two classes—the public service corporation. It is the taxation of the public service corporation in Virginia with which the writer intends to treat from a historical standpoint in this and a few succeeding articles.

Since the corporation is a modern creation, the history of its taxation does not go back very far. The corporation tax, it is obvious, is an outgrowth of the license tax, or the tax on business, since the license tax is the payment of a sum in return for the privilege of doing business. When the corporate form of business appeared the license tax applied equally to this new taxpayer, an individual whose existence was solely a legal one. It had to pay a license tax, as most of the corporations do to this day. Furthermore, as corporation enterprise became more general and stronger, it had to pay a property tax because this legal individual owned property. Furthermore, owing its very existence to the vote of the government, in most instances it is called upon to pay a tax for the privilege of existence, the franchise tax. Not all corporations of a public service character pay taxes for their existence (a sort of combined corporate, poll and income tax) on their property and for the right to engage in business, but this is the theory of the corporation tax in Virginia. It has been a theory which is the result of a development, however; it was not invented in its present form, or practised in its present methods. What was the reason for this evolution of the corporation tax theory? What steps in its history indicate the character and scope of its development?

The earliest taxation of enterprise, the "public service" nature of which cannot be disputed, is in the taxation of railroads, tolls and ferries, and all internal improvement companies operating toll gates on highways, or owning and operating canals, etc., in the Act of 1842-43. By this act, one and one-half per cent. of all "dividends of profit" was the rate of the tax. This method and this rate remained until after the adoption of the constitution of 1851.

There are two points about this earliest form of corporation tax

that deserve attention. The first is its operation. The receipts from the tax were insignificant. In 1844-45 the tax on dividends totaled but $5,551; in 1845-46, $8,059; in 1846-47, $24,178; in 1849-50, $16,118. There were two reasons for this. The number of successful public service corporations in which the State was not an important and even a chief stockholder were very few, and the net profits were small. How correctly profits were reported for taxation, moreover, is a matter of conjecture. Secondly, there are many exemptions. In practically all of the "joint stock" internal improvement companies the State itself had a large share of ownership; in fact, there is ample evidence to indicate that in most cases, the paid in capital of these incorporated companies was contributed chiefly by the State government. In the very few cases where these companies were profitable enough to pay dividends, nothing in the form of taxes came in because of their exemption from taxation. After 1842, nearly all new charters incorporating railroads and canal companies contained provisions exempting them from taxation. It was in a period when every effort of the State was turned toward the encouragement of turnpikes, canals, bridges and railroads, and not only was every advantage in the nature of tax exemption given them, but millions of dollars of the public moneys as well as of private investment were subscribed to further their construction and equipment.

The second point of interest is in the method of the corporation tax prior to the constitution of 1851. It was a tax on earnings—not on property, as Dr. D. S. Freeman in his report to the tax commission points out. Apparently a corporation tax on earnings, in the light of much of the present discussion of corporation taxation, at that time seems extraordinary, but seen in the light of the graduated license tax which we have already reviewed and of the percentage license tax which has appeared occasionally, it may be regarded as having precedents if not indeed progenitors. As early as 1814, auctions, mills, coal pits, tanyards and forges and furnaces were taxed a certain percentum of their "rentals," although this was an extraordinary tax as we have seen. In 1830 ordinaries began to be taxed a definite sum and a certain per cent. of their rental, and in 1841, boarding houses were likewise taxed. In an unmistakable sense this rental tax was a tax on earnings, since the amount of the rental value was dependent upon the profitableness of the business. The rental value was, according to the practice of the time, ascertained, if the establishment or house was leased or rented out, by the rent agreed to be paid; if occupied or operated by the owner, by comparison with others actually rented or leased.

Under the constitution of 1851 the corporation tax was much more

definitely stated than it was in the Act of 1842-43, and levied under different methods, although the earnings tax principle was preserved.

XIV. The Corporation Tax—B. The First Definitely Outlined Policy.

The earliest taxation of public service enterprises, which occurred in 1842-1843, as was pointed out and discussed in my first article on the corporation tax in Virginia, was the tax of one and one-half per cent. of all "dividends of profit" on turnpike, railroad, canal and bridge incorporated companies. It was of little value as a revenue producer for the reasons that so many companies paid no taxes because they were favored with special exemptions, and that so few of those which were not exempted were profitable enough to declare dividends. The really significant thing about this first step in corporation taxation was that it was based on actual net earnings.

The same basis of earnings for corporation taxation appeared in the first law ever passed in Virginia which outlined anything like a definite policy in taxing corporations. The law of 1842-1843 continued until 1855-1856. In the latter year the general assembly provided that "every railroad not exempted by its charter from taxation" to pay "a tax of one mill for every mile of transportation" of every passenger. It should be noted, however, that while earnings was the basis of the new method of taxations, as it was under the law of 1842-1843, the law of 1855-1856 made an important change in the kind of earnings. The first law based taxation on net earnings; the second was a species of gross earnings tax. Here we have the first appearance of our present gross earnings or gross receipts tax on railroads.

The provisions of the law of 1855-1856 are interesting. In the first place, its methods of ascertaining the amount of the tax was largely the same method in principle which prevailed until the corporation commission was created under the constitution of 1902. Every taxable railroad was required to report to the State auditor "the aggregate number of miles travelled by passengers"—that is, the aggregate number of miles over which passengers were transported and the number of passengers. These statements were required to be made quarterly, under oath of the presidents of the roads and their superintendents of transportation. Every railroad company paying this passenger transportation tax was not assessed with any tax on its lands, buildings or equipment. If, however, it failed to pay this tax in six months, then the property tax was to be applied as on real estate. The railroads' property under these conditions was to be assessed under the direction of the auditor of public

accounts, supposedly at the full cost of construction. The tax was to be levied in the usual way by the local sheriffs in the counties through which the railroad passed. Here, too, we have the first instance of physical valuation for purposes of taxation.

In addition to the tax on railroads, there was a gross receipts tax on express and telegraph companies and on toll bridges and ferries. The taxation of express and telegraph companies (except by property taxation) appears for the first time in the acts of the assembly in 1855-1856. Express companies were taxed one-half of one per cent. and telegraph companies two per cent. of their gross receipts. The taxation of toll bridges and ferries as we have seen, began in 1843, when a rate of one and one-half per cent. of receipts was exacted. This rate was changed in 1853-1854 to three per cent. of their yearly "rent" according to the definition of rent as explained in the preceding article, and to six per cent. in 1855-1856.

In 1860 further important changes occurred, as we shall see in the next article. The operation of the tax so far as receipts were concerned may be shown in the following table:

Table Showing Receipts From Corporation Taxes, 1856-1859.

	1856.	1857.	1858.	1859.
Railroads	14,750	25,443	42,192	45,806
Express companies*	252	501	466	442
Tax on dividends	39,599	55,305	47,519	54,130

*Including license tax.

It will be seen from the above statistics that the receipts from corporation taxes from 1856-1859, although larger than under the "dividend" tax of 1843, as shown in the preceding article were inconsiderable. This was due to the large number of exemptions for the most part, and to the small amount of business done by those corporations not exempt. The importance of this system of corporation taxation from a historical standpoint has already been pointed out by Dr. D. S. Freeman in his report to the late tax commission as follows:

"When it be remembered that this law was passed when railroads were of comparatively little value, when the great interstate decisions had not been written and when the entire basis of taxation was still in doubt, the wisdom and justice of the assembly must excite the greatest admiration. More than fifty years ago they devised a system of taxation which many economists today, in the light of modern

theory and vast experience, consider the ideal one." Some important and radical changes, however, took place in 1860.

XV. The Corporation Tax—C. From 1860 *to the Underwood Constitution.*

The corporation tax, particularly of railroads, in Virginia prior to the Civil War, and even prior to 1882, was little more than a series of experiments. In the preceding article we have seen that in 1842-1843 all "joint stock companies" chartered by the State, except those especially exempted, had to pay a tax of one and one-half per cent. on "each dividend of profit," and that in 1855-1856 railroads and other taxable carriers were taxed one mill per passenger mile and were required to furnish sworn quarterly statements showing the number of passengers and the aggregate miles of their transportation. Failing to furnish these statements, they were assessed on the real property basis, the cost of construction being the measure of their property value. This penalty was provided for in all the acts until the State government was disorganized in 1865.

In 1859-1860 an important new tax was levied on railroads as well as all other carriers among "internal improvement companies." This was a tax on gross receipts from the transportation of freight. The rate of this tax was one-half of one per cent. The amount of revenue each road had to pay was based, as in the case of passenger earnings, on statements furnished by the railroads themselves, with an important provision as follows:

"Such company, whose road . . . is only in part within the Commonwealth, shall report as aforesaid only of such amount received for the transportation of freight, as the part of its said road . . . which is within this Commonwealth, bears to the whole of the road."

It is thus evident that the lawmakers had arrived at that point in the evolution of railroad taxation when they recognized (a) the feasibility of the gross earnings tax, and (b) the necessity for making provision for interstate carriers.

The first was due to the growing influence of the western section of the State in a larger representation in the assembly upon the basis of white manhood suffrage and a determination to make the railroads, now becoming factors of importance among those property owners and enterprises having the ability to share in the support of the State, do their part as revenue contributors. The heavy expense of internal improvements then being carried on by the State and of the interest on a large State debt also forced the assembly to seek revenue from every possible source, even from those sources

which only a few years before were generally regarded as exempt from taxation on account of their "public enterprise" character. The second principle that was reocgnized was due to the fact that in the last decade before the Civil War the railroads passed the boundaries of the State to form trunk lines. In fact these same roads are today the trunk lines of the large systems passing through Virginia.

The gross receipts tax was extended in 1859-1860 to other public service corporations as well. Express companies had to pay a tax of one-half of one per cent. on receipts from general transportation and one-fourth of one per cent. of the receipts from carrying bank notes. The latter provision was meant to encourage the use of the notes of State banks. Express companies were also made to pay a license tax of fifty dollars to the State, which was increased to two hundred and fifty dollars in 1861-1862.

During the Civil War the extraordinary demands made upon the treasury caused higher rates of taxation in nearly every direction, the nullifying of special exemptions of railroads and other internal improvement companies and the taxation of public service enterprises heretofore not taxed. For example, railroads were taxed in 1861-1862 one and a half mills per passenger mile and three-fourths of one per cent. of gross freight receipts. These rates were again greatly increased in 1863. The express companies' tax was increased to one and one-half per cent. on gross receipts.

Among the public service enterprises not taxed before but taxed during the war, were gas, steamboat, railroad and other corporations not incorporated by the State and telegraph companies. Various methods of taxation were used in dealing with these new taxables. Gas and telegraph companies paid a flat sum as a license tax until 1863, when telegraph companies paid in addition two per cent. on gross receipts. Railroad and other corporations not receiving a charter from the Virginia State government in 1861-1862 were called upon to pay ten per cent. of their dividends, or if their dividends be less than six per cent.. then the tax was sixty cents on every hundred dollars' capital. Steamboat companies in 1863 were taxed seventeen per cent. of their dividends, if dividends be at the rate of six per cent. or more; if not, then the rate was one per cent. of their capital. In addition, a ten per cent. tax on all net profits over three thousand dollars was levied. In all instances, statements of earnings, gross or net, were furnished by the corporations themselves. The revenue did not contribute greatly to the needs of the treasury. While the records of tax receipts are incomplete except for the years 1862 and 1863, enough are available to show that the amounts received from all corporations except railroads, were insignificant. The total receipts from the corporation tax in 1862 was

$31,633, of which $29,912 came from railroads. In 1863 receipts from corporations was $197,175, of which $185,885 came from railroads.

During the Civil War no real development of the corporation tax system took place except that methods in use before were given a wider application. The important step in the evolution of the tax during the decade prior to the Underwood constitution was in 1860, when a gross receipt tax was applied to freight. When the assembly met after the Underwood constitution went into effect, however, it found that a radical change was necessary under the new organic law.

XVI. The Corporation Tax—D. From 1869 to 1880.

Prior to and during the Civil War practically all public service corporations in Virginia were taxed according to their earnings. Before 1855 the tax was chiefly on net earnings; after the tax law of 1855-1856 the tax was on gross earnings. As soon as the general assembly met after the reconstruction days, and under the Underwood constitution the property tax was applied to corporations and earnings as a basis for taxation was discarded for a time. In a previous article attention was called to the fact that before 1869 there was provision for applying the property tax to any public service corporation when that corporation failed to give in a specified time the sworn statements as to receipts. Excepting the use of the tax as a penalty, the property tax was not recognized as a method of corporation taxation.

Property, license and individual income taxation was emphasized in the constitution of 1867 as the proper method of obtaining revenue, and preference was given to property as the best basis for taxation. Capital stock was regarded as property, and it was expressly provided that "all property" should be taxed in proportion to its value. Only when a business, be it incorporated or not, could not be reached by the property tax was the license taxed to be used.

As the result in the Acts of 1869-70, as amended by the Acts of 1871-1872, with but one exception, all public service corporations were taxed with the property tax alone. Toll bridge and ferry corporations, railroad, canal, express, steamboat, stage, sleeping car and other incorporated transportation companies were taxed on a property basis of fifty cents on the hundred dollars. Telegraph companies were taxed at the same rate on their stock and assets, and, in addition, were made to pay a double license tax. Telegraph companies having a capital stock of $20,000 to $30,000 had to pay a flat license of $250; companies of over $30,000 had to pay $250

plus an additional $5 for each $1,000 of capital. In addition to this, there was a gross earning tax of one and one-half per cent. All local taxation was prohibited of public service corporations.

The property tax was not confined to the tangible property of the railroads and other corporations, however. It was intended that their intangible value should be used as a basis for taxation as well. Since none of the railroads, in the industrial wreck and chaos that followed the war, paid any dividends, bonds were chosen as the measure of value rather than stocks. In 1872, besides the five-mill property tax, a tax of five mills on the dollar of bonded indebtedness was imposed. In order that this tax might not fall upon the railroad companies, it was expressly provided that the amount of the tax should be deducted from the bondholders' annual interest. This law, so far as it applied to bondholders outside of Virginia, was later declared void, and since the majority of the bonds were held by investors outside of the State, the companies had to pay most of the taxes themselves.

The corporations were required, as they were before the Civil War, to furnish to the State all the information necessary for the imposition of the tax. Since the property tax was now applied, they became their own assessors. The State auditor accepted as final the assessments of corporation property as made by the corporations themselves. There was, of course, the tendency to minimize the value of the property as much as possible—a tendency which is evident under normal conditions in all times and places by all payers of taxes, and this tendency was greatly encouraged by the pitiable physical condition in which the public service corporations found themselves immediately after the war. It cannot be denied that, once in the habit of greatly undervaluing their property, it was difficult to get into that frame of mind which would be conducive to higher voluntary assessments, especially when there was little actual pressure for one reason or another from the legislature. The reason for this, as time went on, became more and more political rather than economic.

But regardless of the causes the fact remains that this method of corporation taxation resulted in revenues that became disproportionately less in relation to revenue from other taxables. The following table will illustrate:

TABLE SHOWING TOTAL REVENUE OF STATE AND REVENUES FROM CORPORATIONS TAXES, 1871-1880.

SOURCE.	Average Annual Receipts, 1871–1785	Average Annual Receipts, 1876–1880
Express companies	$ 600	$ 400
Pullman car companies	.....	100
Railroads	26,600	69,700
Steamboat companies	.....	600
Telegraph and telephone companies	40	500
Ferries and toll bridge companies	.....	700
†Improvement companies	30,900	.....
Total corporation taxes	$ 58,140	$ 72,300
Revenue from all sources	2,114,440	2,236,100

†Includes some revenues later specified under railroads and other public service corporations.

It will appear from the above how strikingly evident was the insignificant part played by corporations in sharing the burden of revenue. This is further emphasized by the fact that they paid no local taxes. It may be truthfully said that in the first decade under the Underwood constitution the corporation paid practically no taxes at all.

In the 1881-1882 session of the general assembly the system of corporation taxation was again changed with decidedly greater results.

XVII. The Corporation Tax—E. From 1880 *Until the Present Constitution.*

Corporation taxation, under the Underwood constitution, until 1880, largely upon the property principle, was, as we have seen, practically futile so far as obtaining revenue was concerned. The general assemblies of 1879-1880 and of 1881-1882, however, made some thorough-going changes in methods and with as thorough-going increases in revenue. Under this system corporations were taxed until the present constitution went into effect.

For the purpose of brevity and clearness, I will take up in order: (a) Local taxation; (b) State taxation as changed by the Acts of 1881-1882, and (c) the operation of the tax.

1. Local Taxation.—Prior to 1880, for several years, some cities in Virginia had been given special permission in their charters by its legislature to tax the property of public service corporations, including the rolling stock of railroads. This continued until the

present constitution, when some changes were made. The counties, however, had been prohibited from such taxation. An act passed by the assembly of 1879-1880 granted the counties the right to tax the real property of corporations, the value of which was assessed for both local and State taxation in a manner described below, in connection with State taxation.

2. State Taxation.—The assembly of 1881-1882 provided for two methods of taxation—a property tax and a franchise tax in the shape of a net earnings tax. The property tax was, of course, the same as for all property, four mills on the dollar's valuation. Every public service corporation (railroads, telegraph, telephone, toll bridge, ferry, canal, express, steamboat and steamship, stage and sleeping car, and other transportation corporations), was required to furnish annually to the State auditor a statement showing the extent and nature of its real and personal property. These statements were given to the Board of Public Works, which assessed the property. Notice of assessments were given, of course. For purposes of local taxation, these statements contained estimates of the property located in each county or township, which were raised by the Board of Public Works if it saw fit. The mill unit system was followed on railroads; that is, every mile of roadbed was estimated at the same value regardless of its cost in different localities, depots, terminals, rolling stock, etc., being included in the mill unit. The revised estimates were furnished the local authorities, who proceeded to levy the tax.

The net earnings tax, levied only by the State, was levied in the following manner: Every public service corporation was required to furnish to the State a statement of its growth and net earnings. Net earnings were arrived at by deducting from the gross earnings the "cost of operations, repairs and interest on indebtedness." On these net earnings, a tax of one per cent. was levied on all public service corporations except telegraph and telephone companies. The former were required to pay a flat license tax of $250 and one per cent. on gross income, and the latter a similar tax of $100, and the same gross income tax.

3. The Operation of the State Tax.—Complete data as to the valuation of the property of all public service corporations is not available, nor is it, perhaps, necessary to present in a brief history of the tax all or even the available data. I give below a few figures, which are fairly representations of the words of the new system put into effect by the law of 1881-1882, which will, I believe, fully illustrate the evident contrast with the method used under the law of 1869-1870, as amended by the statutes of 1871-1872.

For example:

TABLE SHOWING ASSESSED VALUES OF RAILROAD AND CANAL PROPERTY, 1880-1900.

YEAR.	Assessed Valuation of Railroad and Canal Properties.*
1880	$ 9,876,306 34
1881	26,940,173 75
1882	33,760,567 50
1885	35,955,924 90
1890	42,500,843 55
1895	53,058,161 14
1900	56,582,345 77

*These figures included also the assessed valuation of mining and lumber companies, and are given in the reports to the Tax Commission of 1911.

In connection with the above it is interesting to note the receipts of both the property taxes and the net earnings tax on railroads. I used the statistics in the tax commission report of 1911, which includes receipts from street railway and mining lumber railroads, as follows:

TABLE SHOWING RECEIPTS FROM RAILROADS AND STREET RAILWAY COMPANIES, 1887-1900.

YEAR.	State Tax on Property.	State Tax On Net Earnings.	Total State Taxes Assessed.
1887	$142,802 08	$ 3,675 14	$146,477 22
1890	170,003 52	1,754 12	171,757 64
1895	222,232 84	1,801 97	214,034 81
1900	226,329 68	26,724 98	253,054 66

It needs but a glance to see the tremendous jump in property values of railroads from 1880 to 1881, and their gradual increase in the years following, and to conclude that the new system of valuation was a great improvement over the old. The results in revenue from the taxation of railroad taxation under this system are seen to have shown a similar steady improvement. On the other hand, the net earnings tax until 1900 (1899, to be more exact) was ridiculous. The plan of allowing railroads to charge off what they pleased to "cost of operation" and "repairs" made it possible for them to reduce "net earnings" to practically nothing for purposes of taxation. In 1899, the Board of Public Works became a little more active in revising the railroads' estimates and in assessing earnings for taxation.

The growth in receipts from taxation of other public service corporations may be seen in the average annual receipts for five year periods as follows:

TABLE SHOWING RECEIPTS FROM CORPORATIONS OTHER THAN RAILROADS, 1881-1900.

COMPANIES.	1881–1885	1886–1890	1891–1895	1896–1900
Express.....	$ 300	$ 600	$ 1,500	$ 1,900
Pullman car.....	.....	.....	900	800
Steamboat.....	3,100	2,500	3,900	3,800
Tel. and Tel.....	1,600	4,200	6,600	13,600

The average annual receipts in the last table are stated in round numbers simply for purposes of illustration.

XVIII. The Corporation Tax—F. In the Constitutional Convention.

In the five preceding articles on the corporation tax in Virginia the purpose has been to show the development of the system through a series of experiments starting in 1842-43, and repeated in various forms in 1855-56, 1869-1871 and 1881-1882. We found that the last method used was that of a property tax plus a franchise tax of one per cent. on net earnings. In principle this method is largely the same in use now; in practice there is a vast difference.

As a matter of fact, a little reflection on the history of the corporation tax (or any tax in Virginia, it may be said) will convince the student that the development in taxation has been more a question of administration than of the theory of taxation, and that this development in methods of administration has progressed somewhat in direct ratio to the importance of the taxpayer from the standpoint of obtaining revenue. The taxation of railroads illustrates this point. When railroads were regarded as public enterprises to which the State, cities, towns and private individuals contributed, they were not looked upon as sources of revenue for purposes of taxation. For the most part they were exempt from taxation, their exemption being but one form of popular and governmental encouragement. Later, after days of political reconstruction, but in times of industrial chaos, they were still lightly dealt with. Practically all of them failed financially two, three and even four times. When, after 1880, the State began on that really marvelous rebound from economic ruin and the railroads began reaping the harvests of increased traffic, for the first time they were seriously regarded as possessing valuable property and as earning considerable income.

The theory of taxation—net earnings, then gross earnings, then property and finally property together with net earnings as the basis for taxation—was more or less academic. It remained very much the same from 1842 until the present time, with the important exception of the addition of the propery tax for reasons which we shall see when we review property taxation as a separate form of tax. The question of enforcing the tax was the question which increased in importance, and this matter of making the railroad corporation pay what the people considered its share of the revenue of the State became the uppermost phase of corporation taxation during the last thirty-five years.

In the debates on corporation taxation in the Constitutional Convention of 1901-1902, how to enforce the tax was the real question. The Board of Public Works had proved to be an unsatisfactory agency. First of all, some better, more authoritative agency had to be provided to act for the State in legislative, executive and judicial capacities in relation to corporations. This was done in the creation of a corporation commission.

Early in the discussion it seems to be agreed to allow this new body to do everything that had been done with the exception of applying the franchise tax. The taxation of the property of corporations was left practically unchallenged, since it had proven satisfactory in obtaining revenue when the State assessing machinery was well oiled. The franchise tax of one per cent. of net earnings, the corporations being the judges of what should be deducted from gross earnings to leave net earnings, had been a farce. Even the representatives of the railroad, who were called into consultation with the convention's committtee, tacitly admitted the absurdity of it; all they asked was that the franchise tax be not revised so as to exact too great revenue at once, that some leniency be shown.

The convention Committee on Corporations was at first inclined to use the form of taxation which a decade or so ago was rather popular in public discussions, the so-called capitalization plan. There were several varieties of this tax—in Maine, New York and Connecticut, for example. The Connecticut plan, which was particularly favored, was that of providing for a franchise tax on valuation of corporation capital and floating and funded indebtedness. The progenitor of this plan in Virginia tax history has already been pointed out in the Act of 1871-1872, taxing the bonds of public service corporations. The convention committee had even worked out the details of a capitalization tax plan. It was proposed to let the State tax two-thirds of the aggregate amount and the counties and cities one-third, according to the mileage rate in each particular county or city. This, it was estimated, would increase railroad

taxes alone about $400,000 a year, and provide a proper distribution between State and localities. This was such a decided increase that the railroads in their representations to the committee pleaded not only for a more gradual increase, but for a different method. They argued that because of various reorganizations during the lean years a great deal more stock was outstanding in the shape of successive issues under the various managements than represented the real value of the franchise, and they suggested a simpler plan, protesting, however, against any constitutional provision for any definite plan.

This plan was in principle the same plan already in use and the same now used. As suggested by the railroads in 1901, it was the old property tax plus a seven mills franchise tax on gross earnings. Chairman Meredith, in explaining the recommendation of the committee in favor of this plan, said:

"After due consideration, we came to the conclusion that, as that (the capitalization plan) would perhaps bear pretty harshly upon the railroads, and as we were looking forward to more control over the rates through the corporation commission, it would perhaps be wiser not to be too hard in the beginning, but to be fair and take a reasonable step, so as to get what would be fair compensation at present, considering the conditions surrounding the companies."

The committee did raise the tax from seven mills to one cent on the dollar of gross earnings, however. It recommended also that this method be effective for ten years without interference from the legislature, provided that the corporation commission's power of assessing the value of the corporation's property, or the legislature's power of changing the rate of property tax be not effective. There was a good deal of debate on the ten year clause, the opposition arguing that it tied the hands of the legislature for a specified time when it might be necessary to get greater revenue, and that if the existing valuation of railroad property of fifteen thousand dollars per mile continued—and it was urged by some that it should be from forty thousand dollars to sixty thousand dollars a mile—the legislature could not force the corporation to increase the valuation. Favoritism to the railroads was bitterly charged and denied. In answer to this opposition, however, and omitting references to motions, it was argued by the advocates of the gross earnings plan, that the railroads should be encouraged, since Virginia as an agricultural State did not afford as much traffic as other States; that with the exception of one road, all the railroads had been in the hands of receivers two, three or four times; that taking the roads at their present valuation and placing upon them the general prop-

erty tax and the one per cent. gross earnings tax, they would be taxed at rates varying from a 3.31 per cent. in the case of the Chesapeake & Ohio to a 6.57 per cent. in the case of the Atlantic Coast Line of gross earnings, as compared with an average of 3.50 per cent. for all roads in the United States; that the gross income tax would increase the taxes from railroads by $260,000 annually, and that it would be fairer for the plan to be tried for ten years without being tampered with by the legislature.

This plan was adopted, and the time limitation on changing it expired on January 1st, 1913.

XIX. The Corporation Tax—G. Taxation of Railroads, 1903-1912.

"How are public service corporations taxed in Virginia now?"

It is in response to the above question, asked of the writer by a reader of the Virginian with a suggestion that a brief outline of the system now in force be given in this series of articles on taxation in Virginia, that I am devoting the space at my disposal to-day to comply with his request. In fact, it is perhaps not an exaggeration to say that comparatively few citizens know how railroads and other public service corporations are taxed, with what method, on what basis and at what rates. The corporation commission does the work, and unless some agitation is started, the citizen has no occasion to be told and no especial incentive to find out. A short statement, therefore, without any expression of criticism or praise may be of general service.

Let us take the taxation of railroads. First, the method:

Under the present constitution, two kinds of taxes are levied—the property tax and the franchise tax. Railroad property is taxed at the same rate as other property, but it is assessed only by the corporation commission. Railroads are required to report to the commission all property, tangible and intangible, in every district of each county and in the cities. The commission assesses it and reports it to the State auditor, who levies the State tax, and to local commissioners of the revenue, who levy the local tax. When the assessment is made the railroads are given opportunity to protest. The present rate of State tax is $.35 cents on the hundred dollars' valuation. Rolling stock was until the Act of 1911-12 assessed as property within the city where the central office of the railroad was located. In the last assembly the movement in the counties and some towns and cities against allowing all the local revenue to go into the coffers of a few "favored" cities culminated in a law which allowed 25 per cent. of the rolling stock to be assessed as property of these cities and provided for the remaining 75 per cent. to be

taxed as property in other localities in proportion to the mileage they contained.

As was pointed out in the last article, the administration of the franchise tax was the greatest improvement made by the new constitution. The franchise tax on railroads is a tax "equal to one per cent. upon the gross transportation receipts," and the shares of stock in the hands of individual owners are not taxed. The chief advance consisted in the substitution of a gross earnings tax for a net earnings tax, which is determined "by ascertaining the average gross transportation receipts per mile" over the whole extent of an inter-state road "within and without this State, and multiplying the result by the number of miles operated within this State." It is especially provided, however, "that from the sum so ascertained there may be deducted a reasonable sum because of any excess of value of the terminal facilities or advantages situated in this State." This tax is also levied by the corporation commission.

In the second place, the operation of the tax.

The valuation of railroad property increased from $58,582,345 in 1900 to $65,818,314 in 1905 and $105,011,799 in 1910. The greatest increase in any one year since the creation of the corporation commission was from $87,193,599 in 1909 to the valuation in 1910. The valuation for 1912 was $116,733,156. The following statistics for the years indicated show the receipts:

Year.	Property.	Franchise.	Total.
1900	$226,329	$ 26,724	$253,054
1905	345,625	378,580	624,205
1910	337,690	484,307	821,997
1912	408,565	558,357	966,923

While the increased valuation of railroad property has nearly doubled in twelve years and the revenues show a corresponding increase, the greatest increase has been seen in the revenue from the franchise tax. The year after the constitution went into effect (1903), however, the receipts from taxation of railroad property were $235,135 and from franchise tax $348,271. Comparing this with 1912 receipts we find that receipts from tax property increased about 62 per cent. as compared with about 38 per cent. from the franchise tax. This, of course, indicates a greater rate of increase in property valuation by the State government than took place in the gross earnings of the railways themselves.

In this connection it will be interesting to recall the inquiry made by the general assembly of 1906 into the railroad property assessment. The United States census estimated the commercial value of

railroads operating property in Virginia in 1904 at $211,315,000, or an average of $53,700 per mile. In the same year the corporation commission assessed the physical property of railroads in this State at $63,269,632. The corporation commission in its reply to the general assembly explained its reason for the low property assessment, and its answer affords a good idea of the method as well as the basis employed.

Doctor F. A. Magruder, in his monograph on "Recent Administration in Virginia," gives a very clear synopsis of this reply, which I quote:

"The commission says, in substance, that the franchise tax, with the property tax, is in lieu of all other taxes or license charges whatsoever upon the franchises of railroad corporations. The commercial value of $211,315,000 represents the net earnings capitalized, and much of the earnings result from the franchise tax, which has a gross receipts tax in lieu of other taxes. Hence the franchise tax for the year, one per cent. of the gross receipts, or $354,173, represents a tax of 35 cents on the hundred dollars (State rate) for $101,192,347 worth of property. Add to this the property assessment of $63,269,623, and the roads have paid State taxes on $164,461,997 worth of property, which is 78 per cent. of the government commercial valuation of $211,315,000. Personal property in the State is assessed at only 34 per cent. of the value assigned to it by the United States estimate for 1904, hence the railroads are taxed more than twice as heavily as personal property. The same condition exists in regard to realty."

Records of receipts from local taxation of railroad property are so incomplete that no basis for comparison with past years is possible. Dr. D. S. Freeman, in his report to the Tax Commission in 1911, stated that local taxes on railroad, canal and electric line property in 1910 were as follows:

By counties	$557,656
By cities	397,173
Total by localities	$954,829

Add this sum to the receipts for State taxes of the same year, and the railroads paid a total of $1,176,826 in taxes, less that paid by canal corporations and electric railway companies

XX. The Corporation—H. On Other Corporations Than Railroads, 1903-1912.

In the preceding article the method of taxing railroad corporations and the operation of the tax under the present constitution

was briefly outlined. We may conclude this history of the corporation tax in Virginia by a short description of the method of taxation of the other public service corporations.

These corporations are steamboat, express, electric (street) railway, car service, telephone and telegraph companies. All of these corporations, except the car service companies, pay the same kind of State property tax as do the railroads, and the corporation commission assesses the values. The car service companies, of which there is only one—the Pullman Company, pays but one tax, a license tax of $2.00 per mile operated. Its personal property is taxable by localities.

The other public service corporations are taxed in two and sometimes three ways—property, license and franchise. Telegraph companies pay in addition to the usual property tax, a license tax of two dollars per mile on poles and conduits and a franchise tax of 2 per cent. on their intrastate gross earnings. The telephone companies' tax is a little more complicated. As Dr. Freeman puts it, "it is graduated according to the character of the business done," in the following manner: (1) "Where its gross receipts do not exceed $50,000 a year; (2) where the pole mileage is not greater than 400, and (3) where the company is not owned or controlled by a company whose receipts are in excess of $50,000 a year, the gross earnings tax is one per cent. Where the three conditions above or any of them be not fulfilled, the gross earnings tax is one per cent. to $50,000 gross receipts and two per cent. on receipts in excess thereof, with a tax of $2 the mile on the poles of such company." The purpose of these especial provisions is obvious. Furthermore, taxation of mutual companies is confined to their property.

The taxation of steamboat companies is on property and by a license for the privilege of doing business between points within the State of one-half of one per cent. of their gross receipts. Express companies pay, in addition to the property tax, a license tax of $6 per mile for every mile operated within the State. Localities also may impose license and property taxes. Electric railways, urban and interurban are taxed in the same way as steam railroads.

The operation of these taxes, so far as receipts are concerned, is indicated in the following statistics:

CORPORATION.	1900.	1905.	1910.	1912.
Express companies	$ 4,396	$ 5,123	$26,918	$27,034
Pullman Company	960	1,039	5,433	5,433
Steamboat	3,207	4,898	7,508	7,795
Tel. and Teel.	28,948	27,399	50,458	54,207
Electric railways	....	....	63,699	58,974

The effect of the provisions of the new constitution through the work of the corporation commission and of several statutes passed subsequent to the going into effect of the new constitution may be seen at a glance: The above figures are for State property, license and franchise tax receipts. In addition local tax receipts should be taken into consideration. The following statistics for 1910, compiled from reports to the recent tax commission will indicate the relative importance of State and local taxation as well as the total receipts stated in percentage of earnings:

CORPORATIONS.	From State Taxes.	From Local Taxes.	Per Cent of Net Earnings.
Express companies	$26,918	$ 7,519	†
Pullman Company	5,433	*	†
Steamboat companies	7,508	18,302	$4.13
Tel. and Tel.	50,458	51,366	5.97
Electric railways	63,699	238,442	7.58

†Reports of earnings in the State are not available.
*Only personal property of car service companies is subject to local taxation and the amount is negligible.

The computations of total local and State taxes paid by public service corporations in terms of the percentage of their earnings, while interesting, is not to be taken as a fair method of viewing the share of the total State and local revenue that they pay, because of the obvious fact that the share that other enterprises and individuals pay cannot be so computed. There is no way of ascertaining what percentage of earnings, for instance, a private business pays to State or local or both State and local government. Certainly it is absolutely impossible to ascertain this percentage in the case of individuals. All taxes come out of incomes except the tax on inheritance and on other forms of "unearned increment"; else taxation is confiscation of property already owned and existing. The use of property as a basis for taxation, for example, is simply a means of measuring one's ability to pay, or one's income, and the same is true of other taxes, except the direct tax or personal income or corporation gross earnings. The limit to which any or all of these methods of taxation may be used, in fact the limit to taxation itself, is the effect on the profitableness of an enterprise, or the ability to make ends meet in the case of individuals, and while the expression of taxes in terms of percentage of earnings, when possible, gives a valuable and necessary insight into the extent of the effect of taxation, it cannot be used for purposes of comparing the weight of taxation borne by these corporations, whose earnings are definitely known, with that borne by enterprises and individuals whose earnings cannot be definitely known.

How much of the burden of supplying the local and State revenues should be carried by corporations and how much by other taxpayers, is thus a question that cannot be accurately determined, because the data is not, and, with present methods of securing data, cannot be available. We must, therefore, expect it to continue to be a matter for discussion, reform and adjustment. It is a matter largely subject to conjecture, partly to be determined by general observation, and nearly always to be settled by compromise. The value to a corporation itself of its own right to exist, which, on attempt of measure, cannot be compared in actual figures with the value of an individual's right to live and to live according to varying conceptions of comfort; nor can the value of a corporation's service to a community be measured by any yard-stick method to the service of an individual to a community, be his service expressed in terms of his income or in an unmoneyed sense. The things are incomparable and we must blunder along the best we can with the sole aim of adjusting taxation so that all may render to the State and the community the greatest and best service they can.

XXI. The Income Tax—A. The First Experiments.

Since 1843 Virginia has directly taxed the incomes of individuals with varying exemptions. Of course, there has been the vocational license tax, or faculty tax, as it is sometimes called, such as the licensing of lawyers and doctors which was levied as early as the end of the eighteenth century, and reviewed in 1814 as we have already seen, and later continued. But this faculty tax was an income tax only in the sense that all taxation, except that on inheritances, and "unearned increments" indirectly comes out of income; the direct income tax is what we call the "income tax" and is the subject of this and a succeeding article.

In the history of taxation of individual incomes in American commonwealths, there have been two general causes which have resulted in its introduction:

First, the feeling that the burden of supplying revenue ought to be shifted as much as possible on those who are known to be able to bear it, as the result of a demand for greater justice in taxation; second, the need for greater revenue and the use of the income tax as an available source.

The latter of these two causes led to the introduction of the tax in Virginia, so far as I am able to judge, and there can be no question of the fact that both of them contributed to its extension from 1853 (after the constitution of 1851) until the Civil War, when the need for revenue was the predominant, if not the chief cause. Before the constitutional convention of 1850-1851, the legislature

was in the control of the eastern planters, who were for the most part, the large tangible property owners. The income tax appealed to them, in the dire need for more money with which to carry on the continually expanding system of internal improvements, as a tax which would not burden them, but which would cause the non-propertied wage-earners and salaried individuals, to bear a share of the burden. Accordingly a tax of 1 per cent. on incomes over $400.00 was imposed. This applied, and was generally understood to apply, to those who drew a fixed stipend in the form of salaries and wages. The other class of income drawing persons—the capitalists as distinguished from those engaged in business and from owners of real property—were not, however, slighted, as a tax on interest of two and a half per cent. was levied. This was reduced to two per cent. the following year, and in 1850 the opposition of capitalists was successful enough to change the income tax to a tax on "salaries." It is significant, however, that the income tax was a distinct development of the system of taxation in this period of Virginia's history, although it was by no means due entirely to a demand for a more equitable sharing of the burden of supplying the State revenue in favor of those who were able to pay, except in the case of owners of intangible property in the form of bonds or loans. It is significant also, that this first income tax was the means of recognizing two new classes of taxpayers—the wage-earner and the capitalist—as distinguished from the small farmer, large planter and merchant and manufacturer who were already taxed through property and license taxes. Probably it is not going too far to say that their recognition was due in some measure to their growing importance in the changing character of industry at that stage of the economic evolution in Virginia and other States.

The constitution of 1851 included a provision for taxation of incomes on an entirely different principle. This principle reflected the radical change in the political control of the State, the change from the East to the Central and West, from the hands of the plantation owner to the small farmer, which was brought about by a reapportionment of representation in the general assembly upon the basis of white manhood suffrage. A glance at the provisions of the Act of 1853-1854 will suffice to make this plain. Incomes (including "salaries") were taxed on a graduated basis with the exemption of all laborers engaged in mechanic arts, trade, handicraft or manufacture, and ministers of the gospel. The provisions were as follows:

Incomes up to $250—One-fourth of one per cent.
Incomes $250 to $500—One-half of one per cent.
Incomes $500 to $1,000—Three-fourths of one per cent.

Incomes over $1,000—One per cent.

Interest from Stock—Three and one-third per cent.

By the Act of 1855-1856 all of these rates were doubled, as were the rates on property, and also the license rates as a general rule, because of the need for more revenue. During the war the rates were again greatly increased for the same reason, and the graduated basis discarded. Incomes of over $500 (smaller incomes were exempted) were taxed in 1860-1861 at one per cent., 1861-1862 at one and a half per cent., and in 1863 at two and a half per cent. Interest was taxed in 1861-62 at ten per cent., and in 1863 at seventeen per cent.

The records unfortunately, do not afford enough data to judge of the efficiency of the income tax before the Underwood constitution, as receipts from income taxes after 1851 are not listed as a rule separately in the treasurer's or auditor's reports. Receipts for the few years prior—under the $400 exemption law taxing salaries and wages—were as follows: 1844, $5,344; 1847, $4,209; 1851, $5,058. The revenue was thus insignificant in amount. For 1855, under the new constitution of 1851, I find receipts from income to be $12,506, still an inconsiderable revenue. From the tax on interest, however, the revenues were larger—$14,806 in 1844; $12,381 in 1847, and $18,294 in 1851. In 1855 it was $19,188.

Thus, with but almost futile results, Virginia tried several experiments with the income tax before the Underwood constitution, and with at least two distinct purposes—first, to obtain more revenue, using a percentage tax on wage earnings over $400, and on interest forming a capitalistic income; second, to equalize the burden of taxation as well as to obtain revenue, using a graduated income tax and a much heavier interest tax.

The income tax under the later constitutions will be outlined and discussed in the next article.

XXII. The Income Tax—B. From 1870 to 1913.

The Underwood constitution of 1869 permitted a tax on incomes in excess of $600. This meant that if the tax were levied, all the income of every individual over and above the specified exemption, which could not be less than $600, would be taxed. In my first article on the income tax during what might be termed the period of experimentation from 1843 to 1865, it was pointed out that at first "income" meant salaries or wages of employed persons, while a specific tax on interest was levied to tax the capitalists income; then under the constitution of 1851, a graduated income tax was tried, but afterwards abandoned, and the method was changed back to the flat rate, with an exemption of $500,

besides a tax on interest. In 1870, since under the Underwood constitution, there was but one definition of income, which was "all income," a flat rate of two and one-half per cent. on incomes over $1,500 was levied. This rate was reduced to one and one-half per cent. in 1871, and the exemption lowered to $1,000. In 1874 it was again reduced to one per cent. of incomes, with the exemption placed at $600, and at this figure and at this rate it remained until 1908. In 1908 the same rate was continued, but the exemption was raised to $1,000. The exemption was again raised in 1910 to $2,000. Incomes in excess of $2,000 are now taxable at the rate of one per cent., the rate having been unchanged since 1874.

The income tax in Virginia occupies a position of rather unique importance. Virginia is one of a very few States now having an income tax, and it is the only State which gets any considerable amount of revenue from it. There are a number of States which specifically tax some form of income, or income from some particular source. Some have specified salaries, as did Virginia before the Civil War; some have specified profits; others have taxed interest as did Virginia. But of the sixteen States that have employed the general income tax—that is, taxation of income from all sources—only four maintain it; the other twelve have abandoned it. These four are Massachusetts, North Carolina, South Carolina and Virginia. There are several qualifications in the case of Massachusetts' income tax, however, that really renders the operation of the tax in that State, incomparable with the tax in the three southern States mentioned.

The operation of the income tax in Virginia is, therefore, of larger interest, because of the unusual example it presents. It cannot be said that it has presented an example of the successful operation of a State income tax, certainly not until very recent years. From 1870 until 1908, the revenue never reached a total in any year, of $100,000. Until 1902, the revenue never reached half of that amount, and some years, it was less than a quarter of it. It has always been "a tax on the honesty of the citizen"—or if put in more justly and more exactly, a tax on the conception of honesty as existing in a community. During the past decade, as Dr. Macgruder points out (Recent Administration in Virginia, p. 172) it has not been assessed at all in from twenty-five to thirty per cent. of the counties. The individual taxpayer assesses his own income. He may deliberately give a false return; he may conscientiously believe he is entitled to some reductions or exemptions not specifically mentioned in the statutes, but included under the head of "losses," which may mean anything from what he spends on a piano

or a home, or to what he has lost at cards or in a real estate speculation; he may not return any income above the exemption stipulated in the statute, because Mr. Brown, his neighbor, who he knows or believes, has a greater income than himself, returns no taxable income; he may not be asked to give any income in for taxation by the commissioners; or the commissioner may not have any idea of what "losses" ought to include; or it may not be the custom in his community to obey the law in this particular at all. The plain fact of it is that it is not thoroughly enforced except in rare instances.

In spite of this experience, however, a great improvement is evident in its operation in the last few years, and because of the attention which has been called in the last two years to the poor administration, a greater improvement than ever before will doubtless be seen in 1913 over 1912. The following statistics from the reports of the State auditor show the receipts from the income tax for the years indicated:

Year.	Revenue.	Year.	Revenue.
1901	$ 46,023	1907	$ 94,291
1902	59,253	1908	122,058
1903	60,357	1909	102,810
1904	64,781	1910	106,909
1905	70,954	1911	129,429
1906	77,414	1912	102,678

The demand for either a repeal of the income tax law, or for some adequate machinery for its enforcement as well as a clearer definition of what may be included under the head of "losses" for the purpose of reduction, will be discussed in a later article. It is not going too far to say that if it is to be kept on the statute books there is still almost incalculable room for improvement. Perhaps if there were some means of calculating taxable incomes, there would be no trouble in improving the present system. But when the automobile-owning truck farmers of Accomac return only $14,768 in taxable incomes in 1912; when Middlesex (as well as fourteen other counties) says it does not contain in its population a single, solitary citizen with an income of over $2,000 a year; when Rockingham pays $313, and Shenandoah $30 in income taxes, both of which are in the rich valley section—then the example of Virginia sets as the State getting more from the income tax than any of the other States employing the tax, is not a wholly encouraging one. Virginia at present, gets just enough from her income tax to be unwilling to do away with it, and not enough to render it an important enough source of revenue to become an object of serious reform. With a federal income tax just going into effect,

too, the question presents the still further uncertainty of whether a State tax on incomes will be considered too great a burden for personal incomes to directly bear, or whether it will point the way for a practicable method of enforcement.

XXIII. The Tax on Banks.

The taxation of banks, either directly or indirectly, since about 1838 in Virginia, has been regarded as a distinct method of obtaining revenue. The peculiar character of banking enterprise is one reason for this, since the tendency is for enterprises or properties, having characteristics distinct from the characteristics of other taxables, to be taxed by different methods. A second reason is that it was nearly the middle of the nineteenth century before investors in the profitable banking enterprises of the time could be reached by the people as a whole, represented as they were, by a preponderance of delegates from the propertied classes. When once they were reached, a specific tax was levied upon them. Finally bank stock was taxed upon the same basis as other intangible property, but with a different method.

There are evident in the history of the bank tax in Virginia three periods: (1) From 1838 to 1860, when bank stock dividends were specifically taxed; (2) from 1860 to the collapse of the State government at the end of the war, when the capital of banks was directly taxed, and (3) from 1871 until the present, when bank stock was taxed as property.

In about 1837, the first act taxing banks specifically was passed, but it was an indirect tax through the bank stockholder. My data on the exact year in which this tax first appeared is not complete. The holder had to pay a tax of two and one-half per cent. on the dividends from his bank stock. This was decreased to two per cent. in 1844, but was raised in 1853-54 to three and a third per cent., and in 1855-56 to six and two-thirds per cent. During the Civil War, the rate was greatly increased. In 1861-62, it was ten per cent., and in 1863 seventeen per cent. It will be at once seen that this tax was really a form of income tax and was so intended, since the rates corresponded on those levied on dividends from other kinds of stock, which we discussed in the articles on the income tax. It is proper to note the tax on bank stock dividends here, however, because they were singled out, even before a direct tax on banks was ever levied, for special taxation.

In 1860 there was levied the first direct tax on banks. It will be noted that the indirect *quasi*-income tax was still continued, however. The new tax was on the capital of banks and had to be paid

by the banks. It was in the form of a license and it will best be shown by giving the rates for the years indicated below:

BANK CAPITAL.	1860-61	1861-62	1862.
Up to $200,000	$ 50	$ 75	$125
$200,000 to $400,000	100	150	250
$400,000 to $600,000	150	225	375
$600,000 to $800,000	200	300	500
$800,000 and over	250	375	625

The extraordinary increase in rates were due, of course, to the extraordinary demands upon the treasury during the Civil War. I do not find any further changes in rates during the war, although in most instances rates of taxation on other taxables were greatly decreased in 1865.

After the reconstruction, when the Underwood constitution went into effect, the capital of banks was not, and has not since been taxed. This was due to the passage of the national banking act of 1864 as amended in 1868, and the decisions interpreting these laws declaring a State tax on the capital of national banks to be illegal. In 1871, the Virginia assembly, in its general revenue act, placed a tax on bank stock, but it was stipulated that bank stock was to be taxed at the same rate as other intangible property. The law did not specify whether the book or market value of the stock was to be the basis for assessment, and in 1884, an amendment specified market value as the basis. The tax remained unchanged until 1903, when it was provided that the market value of bank stock should not be less than its proportion of the capital, the surplus and the undivided profits of the bank. In 1908 it was provided in an act of the assembly that a reduction of ten per cent. in the value of the stock for debts due the bank by share-holders could be made. The tax on bank stock is paid through the banks, and this deduction can be made only when a statement of debts due and securities held is filed with the State. For instance, only 119 out of 363 banks assessed by the State in 1910 availed themselves of this deduction, the 224 others presumably preferring to pay the tax than file statements. Deductions are also allowed for assessed value of real estate of banks otherwise taxed by the State, and, of course, these deductions are taken advantage of.

While under the present system of taxation there is a manifest inequality which bears heavily on the bank—in that bank stock is taxed at its market value as outlined above, while real property is taxed at about one-third of its value, and much of the other intangible property escapes taxation altogether—the operation of the tax in producing revenue has been one of the most satisfactory

from the earliest tax on bank stock dividends to the present. In 1838-39 the revenue was $41,017; in 1839-40, $84,715, and in 1840-41, $120,030. At about the last named figure, it continued until 1843-44, when the receipts increased to $142,865. In 1846-47 the revenue was $158,903, and in 1849-50, $180,116. It reached the $200,000 mark in 1853-54, and continued in about that sum each year until the outbreak of the Civil War. The period of taxation of the capital of banks was, as we have seen, quite brief, and the available data does not show the receipts separately from other revenue. Under the present system of taxing bank stock as intangible property the following annual averages for the five-year periods indicated will indicate the growth of the importance of the tax:

Periods.	Average Annual Receipts.	Periods.	Average Annual Receipts.
1871-1875	$21,100	1891-1895	$42,400
1876-1800	27,100	1896-1900	40,800
1881-1885	28,500	1901-1905	85,200
1886-1890	32,900		

In 1905, the receipts amounted to $92,239; in 1910 they reached $134,233, and in 1912 they were $147,897, contributing nearly two and a quarter per cent. of the total State revenue.

XXIV. The General Property Tax.

In the movement for tax reform which, within the past four years, has reached the point when action by the general assembly seems inevitable, that particular tax about which there has been the loudest and most persistent outcry has been the property tax. Whether this singling out of the property tax has been due more to the belief that its inequalities of principle and of administration has been greater than inequalities in other taxes, or whether to the possibility that its defects are more easily seen, is certainly a question for careful and calm investigation. But regardless of the debatableness of the question, it is undoubtedly true that the general property tax is the one tax in Virginia which touches the pocket-book of practically every citizen, and certainly the budget of every householder, to say nothing of business enterprises and corporations. It is natural, therefore, that some reform of this tax should be at least the most evident, even if there is good reason to doubt the need for a reform of this particular tax instead of the entire system of taxation.

The discussion of the general property tax thus leads up so closely to the present movement for reform that I have, in this series of brief historical articles, purposely postponed it until the last. In

the preceding articles that have appeared in *The Virginian,* I have endeavored to trace the development of taxation during the colonial period, and then to show how each tax has developed during the various periods of Virginia history as a State, viz: (1) from 1879 to the constitutional convention of 1850-'51; (2) from 1851 to the end of the War between the States; (3) from the adoption of the Underwood constitution in the late sixties to the constitution of 1901, and when necessary (4) since the present constitution went into effect. Considerable emphasis has been laid on the license tax, the corporation tax, and the bank tax, as being the methods by which the State and the localities have secured their revenue from productive business enterprises, and the income tax has been treated as the only direct method of taking from the individual citizen a portion of his earnings for the purpose of supporting the government. We may very naturally pass now to a discussion of the tax on real and personal property of individuals, since the "general property tax" as it is called, is the chief indirect method of accomplishing the same purpose as the income tax.

It is of vital importance in any tax discussion or legislation to remember that all taxes, except upon inheritances and unearned increments, must come out of the current revenue of the individual, private enterprise, or public corporation taxed. I say "must" because if taxes can not be paid out of current income, they will come out of the property taxed and in the long run will consume the property itself or send the property owner into bankruptcy. Even inheritance and unearned increments are "income" of the individual to whom they accrue, but they are so plainly "unearned" that in many States and countries the government (that is, the public) feels that it has the right to a larger share than the ordinary rate of taxation. The same principle exists in the liberal income tax which increases its rate on larger incomes, and there is no difference in this principle from that which is the basis of indirect taxation of income through the property tax.

For, right or wrong—and its justice as well as its economic soundness may well be questioned under at least certain conditions—it is evident that the general principle upon which property has been taxed in Virginia from the middle of the eighteenth century until now, has been that all property shall be the measure of the proportion of revenue that the individual or corporate owner pays towards the support of government. This principle governs not only State, but local taxation. Such taxes as license, inheritance, corporation, poll and income, were added to the main trunk of the system as the necessities of obtaining more revenue became apparent, and when it was discovered in some instances that property ownership was not an adequate measure of ability to afford revenue.

An account of the development of the general property tax, therefore, is probably the most important chapter in a history of taxation in Virginia. It is intended in a few succeeding articles to outline: First, the State tax on property in the light of such economic conditions and political tendencies that may seem most pertinent; second, to briefly describe the operation of the tax in various periods; and, third, to point out the effects of the system as seen at the present time that are the occasion of the recent effort on the part of the legislature to bring about reforms.

There is clearly discernible, in reviewing the history of this tax, a central point or date. This was the year 1851, when the State constitution was revised for the second time after the admission of Virginia into the Union. The convention which effected this revision, crystallized the unmistakable tendency toward a universal property tax. This tendency had been plainly in a process of evolution not only during the period of Virginia's history as a State, but also during a large portion of her history as a colony. The constitutional convention enacted as a provision of the organic law the principle that all property should thereafter be taxed equally and in proportion to its value. The history of the tax on both real and personal property thus naturally falls into two parts—the development of this principle up to 1851, and the operation of it after it was put into full effect.

We will take up first the history of the taxation of real property from the end of the colonial period to the constitution of 1901.

XXV. The Real Property Tax—A. Prior to the Civil War.

Two clases of real property have been distinguished in the colonial period. These were lands and town lots. This classification was retained until the constitution of 1851, when all real property was placed under a single classification. As long as the distinction was made, a different method of taxation was employed. "Land," *i. e.*, farm land, was taxed on a direct *ad valorem* principle: "Lots," *i. e.*, occupied or rented town property, was taxed according to its rental value.

Another difference between the points of view from which real property taxes were regarded before and after the constitution of 1851 is this: Prior to the constitution of 1851, real property taxes were frequently changed and unhesitatingly adjusted to exigencies of the treasury; after 1851 until the present day, the real property tax has tended to remain as invariable as possible. One of the chief reasons for this was the growth of the list of taxables. During the

first half of the century, land, slaves, a small number of licenses and a few specific articles of personal property constituted the entire taxable list, although the tendency was to gradually increase this list. By 1850, when the convention was called to frame a new constitution, the conception of the proper extent of taxation had so grown as to be able to include in the organic law of the State a provision making "all property" taxable. As the list of taxables increased, the real property tax was allowed to remain without change for longer periods, other sources of revenue being more and more relied upon to bear the varying expenses of the government and the extensive internal improvement schemes in which the State participated, until to-day there exists almost an unwritten law that prevents the State tax on land from being changed.

The rates of taxes on real property, prior to the War between the States, and the receipts of these taxes for certain representative fiscal years are shown in the following tables:

Table I.—Rate of taxation on "Land" and "Lots" 1800-1851, and real property (all land) 1851-1852.

YEAR.	Lots Per $100 rental.	Land. Mills.
1800	$1.56	4.8
1814	2.70	8.5
1818	3.00	7.5
1820	3.00	1.25
1824	2.03	.8
1830	2.00	.8
1838	2.50	.1
1841	3.00	1.2
1843	3.00	1.5
1853	...	2.
1854	...	4.

Table II.—Receipts from taxes on real property, 1800-1855.

YEAR.	Lots.	Land.	Total.
1800	*	.....	$130,398†
1810	*	.....	142,433†
1820	*	.....	274,980†
1822	$28,661	$162,968	191,629†
1825	25,083	146,778	171,861
1839	46,418	191,346	237,764
1844	60,912	236,341	279,253
1851	84,893	283,169	367,062
1855	96,065	485,781	581,836

†Assessed. Actual receipts not available in records.

*Not separately listed from land.

It will be seen that the tax on farm land sharply increased from 1800 to 1814. A slight reduction occurred four years later, followed by a sharp reduction to a level below that of 1800 in 1820. After the constitutional convention of 1829-'30 and the adoption of a new organic law and finally under the influence of the predominant majority of plantation owners in the East, another upward tendency was checked in 1841, after eight years of high levies, and this continued at a comparatively low level until the outbreak of the War between the States.

After the adoption of the new constitution of 1851, all realty, farm land as well as town lots, as has already been pointed out, was assessed in the same way as farm land had been prior to this time, that is on the *ad valorem* principle, and the first legislature under the new constitution raised the rate from one and one-half mills to two mills on the dollar. This was soon seen to be insufficient in view of the increase in State expenditures for internal improvements. The legislature, elected on the white manhood suffrage basis, and under a system of representation which afforded a large growth in the power of the western part of the State, was free to spend the revenues of the State in these improvements, and to exercise more latitude in tax levies. Hence, along with a great increase in license taxes in addition to the taxing of all personal property it doubled the land tax to four mills on the dollar's value. This was the rate prevailing at the outbreak of hostilities, and it was, of course, increased during the war.

The method of taxing town lots prior to the constitution of 1851 was peculiar to that period alone. Lots were taxed according to their rental value, the rate ranging from two and a half cents to three dollars on the hundred dollars of annual rental. Lots, of course, included all improvements, such as houses, barns, mercantile and other buildings, fences and the like, the assessment being based on the prevailing rent of houses in each locality.

XXVI. The Real Property Tax—B. Ante-Bellum Assessment Methods.

The methods of assessing real property had its effects upon revenue as well. Under the assessed valuation according to the equalization act of 1817, the revenue from taxes on farm lands steadily decreased from that year until 1824. Part of this decrease may be accounted for by the lower rates of levy, which in 1817 were eight and a half mills on the dollar; seven and a half in 1818, and one and a quarter in 1820. But in 1824 the rate was put at eight mills and so continued until 1841, when it was decreased again to about one and a half mills, a rate which prevailed until 1853. During the same

period the receipts decreased under the great increase in rate in 1824, as compared with 1812, but increased 25 per cent. by 1844, and nearly 70 per cent. by 1851, when the rate was only about one-fifth of what it had been. When the tax was doubled in 1854, the receipts approximately did the same. The explanation of this, as seen from the meagre grounds for interpretation existing in print, lies in a great relaxed assessment prior to 1830, under the old equalization act and in the growth of market value of lands and in the truer basis for assessment after that time when the market value of real property was followed more closely, even if unequally and only with the vaguest idea of approximation. The reports of the State fiscal officers on several occasions prior to 1630 complain of the laxity in which assessments were made of land, in that "improvements" thereon were persistently ignored by the local assessing agents.

The rate of tax on "town" lots varied very slightly after 1814. In 1800 the tax was one dollar and fifty cents per one hundred dollars of rental. This was increased to $2.70 in 1814, and to $3.00 in 1818, at which rate it remained until the rental basis was abolished in 1851. Prior to 1820 we have no statistics to distinguish between receipts from taxes on farm and town real property, but in general the receipts from "lots" followed that from farm lands, decreasing slightly from 1820 to 1825; doubling about 1839; and doubling again about 1851. Taxation of town property, however, figured little if to any degree, in the agitations over taxation during this period. The legislative debates and those of the constitutional convention rarely allude to them, and in the press and in the literature of the day, there is hardly a mention beyond an occasional complaint in the official State reports of fiscal officers which allude to laxity in assessments in general. There is undoubtedly a good reason for this in the fact that the towns prior to a period after the War between the States, were small and their political influence unavailing. The tax of $3 a $100 rental was comparatively light and loosely applied, and the town residents were concerned with licenses, taxation of business and their own fiscal systems. Local taxation, in fact, figured more conspicuously than State taxation of town property when municipal subscriptions were undertaken to the canal and railroad projects, which were considered necessary to their growth. Municipal improvements, in the modern sense of the word, were undertaken only on a small scale, and when town residents came to realize their own localities as corporate entities, they were so regarded only in a commercial sense, and every effort was bent in the direction of connecting with other towns and the surrounding country by thoroughfares and systems of transportation rather than in public conveniences and utilities.

The "rental" method of assessment of town property possesses enough historical interest at least, to warrant a word of explanation. Mr. C. Lee Moore, the present State auditor, has kindly looked up for me some explanatory statutes in the Code of 1849, and among some extracts, he sends me the following (from page 184 of 1849 Code of Virginia):

"Sec. 39—Such yearly rent or value shall, when the lot or house are rented or leased out, be ascertained by the rent agreed to be paid by the tenant; and, either the proprietor or tenant, or both, shall, when applied to by the commissioner, state on oath the amount of such rent.

"Sec. 40—The yearly rent or value when the house and lot are occupied by the proprietor, shall be ascertained by a comparison of the value thereof with that of other houses and lots actually rented."

Any improved lots not occupied or rented were assessed and taxed in the same manner as agricultural lands.

XXVIII. The Real Property Tax—C. Inequalities Before the Civil War.

As to the operation of the tax on real property throughout the ante-bellum period, there exist in the published records and the press, occasional indications of complaint against the inequality of land assessment. During the first few years of the nineteenth century, an agitation arose over the question, which resulted in the land equalization act of 1817. By the terms of this act, an arbitrary valuation was determined upon which in effect, placed a value on lands in various sections of the State. These, of course, varied slightly within these divisions, some latitude being allowed. In general, the result of the equalization stated in average terms, placed the following valuation per acre, according to section:

Trans-Alleghany	$ .92	per	acre
Valley	7.33	"	"
Piedmont	8.20	"	"
Tidewater	8.43	"	"

This rate of valuation appeared to afford general satisfaction with the Tidewater section, whose representatives held the balance of power in the legislature, and on the whole, was agreeable to the entire State. As time went on, and the market value of the land in the Trans-Alleghany, Valley and Piedmont sections enhanced, it became more and more unsatisfactory to the planters of the Tidewater section of the State, whose land decreased rather than increased in value on account of wasteful agricultural methods. The system prevailed, however, until the constitutional convention of

1829-'30, when the question of the land tax became one of the matters of supreme importance. Then a fight, in which the landowners of the east led, was precipitated. The injustice of an outgrown standard of valuation was urged with vehemence. It was shown that the eastern planters paid $3.24 in taxes for every dollar paid by the small western farmers, and that the inequalities of the assessment basis were largely responsible for this inequality in bearing the burden of public expense, especially since no small part of the State revenue was already being paid out annually for the improvements of highways and canals in the central and western parts of the State.

Although the convention ended in a compromise so far as the legislative power of the East and West was concerned, regular periods for assessments of various kinds of property by local officers were provided in the legislature which followed. The inequalities did not cease, it seems, although public attention was turned to other matters. Newspapers from then on until the end of the ante-bellum period frequently published complaints from the victims of unequal and unfair assessments, but it never reached the point of being the subject of legislative investigation or new legislation. The constitution of 1851, moreover, made no change in the methods of assessment. In fact, none has been made up to the present day, which in any way changes the principle of assessments of real property—such as has been in use since 1830.

The discussion of inequalities leads us to the period since the Underwood constitution went into effect until the new constitution of 1901. For with practically the same method of local assessment a State tax on real property could do nothing else than become more and more unequal under conditions of varying degrees and rates of progress. In the succeeding article the real property tax from 1871 until the present time will be briefly reviewed. Then, after a review of the personal property tax in the same manner, we shall be ready to discuss present conditions and the movement for reform.

XXIX. The Personal Property Tax—A. The Period of Its Development.

The development of the principle of the general property tax is more clearly evident in the history of the tax on personal belongings. The limited scope of this tax, which had prevailed in Virginia from the time when certain articles of personal property were first taxed during the French and Indian wars, continued until the adoption of the constitution of 1751—a period of one hundred years. Practically no change was introduced under the constitution of 1789, and scarcely an evidence of any extension of this form of tax is seen

until 1842, when a few more articles were added to the taxable list.

From 1789 until 1842, personal property taxed included only the following:

Horses and mules.

Coaches, stages, gigs.

Slaves.

Only slaves over twelve years old were taxed. In 1789 they were taxed ten shillings a head, but in 1792 this rate was reduced to one and sixpence. In 1800, the rate was forty-four cents, which was raised in 1814 to seventy-nine cents, and lowered to seventy cents in 1818. Further reductions took place in 1824 to forty-seven cents, and to twenty-five cents in 1830. Then a slight increase (to thirty cents) was authorized in 1838, followed by a rate of forty-one cents in 1841, and another increase in 1843 to forty-six cents. No further changes were made until after the constitution of 1851.

Horses and mules were taxed in the same manner as slaves. Dropping from the high rate of ten shillings a head in 1789, to fourpence in 1792, the rate of twelve cents a head continued much the same throughout the half century, with the exception of a twenty-one cent rate from 1814 to 1820. The tax on vehicles was a graduated tax from 1789 to 1842, ranging from $6.50 to $7.50, according to style and character of the vehicle; thereafter, it was an *ad valorem* tax, with occasionally a specific feature. Thus in 1814, vehicles for riding purposes were taxed at one per cent., in addition to which were specific rates for certain equipments ranging from 67 cents to $5.33 the vehicle. In 1841, a flat *ad valorem* rate of one and one-quarter per cent. was levied, which was increased to one and one-half per cent. in 1853. In 1842, the general assembly added several other articles to the list of taxable personal property. These were watches, pianos, gold and silver plate, and clocks. Watches were taxed from twenty-five cents to a dollar each, pianos one to two dollars each, and clocks fifty cents each (the rate on clocks was reduced to twenty-five to thirty cents each in 1843) according to a graduated price. Gold and silver plate was taxed one per cent. *ad valorem.* In 1843, interest from bonds was taxed for the first time at a rate of two and one-half per cent.

In the constitution of 1851, all personal property was defined as taxable, and for the first time personal property was taken to include "money" "credits," and all capital invested in any business (except agriculture, which was covered by specific taxes on buildings, implements, land, etc.) on which no license tax was levied. Slaves, which were of course, personal property when twelve years old and over, were to be assessed with a tax equal to that assessed

on land to the value of $300. Slaves under twelve years were exempt, and the new constitution further provided that any taxable property could be exempted only by majority vote of the general assembly. Churches, schools, and charitable institutions were of course the usual exemptions, and the list was not increased except in rare and unimportant instances.

The general assembly, under the new system, at its session of 1853-'54, levied a tax of two mills on every dollar's worth of personal property; of sixty cents on every slave twelve years old or older, of three and one-third per cent. on all interest, dividends accruing from stock in banks of all kinds. At the following biennial session (1855-1856) these taxes were doubled to meet the demands of the treasury, and continued at this rate until the outbreak of the Civil War, when a further general raise in tax rates became necessary to meet the unusual expense of military preparation.

Personal property taxes contributed in revenue for 1851 about one-third of the total receipts from taxation, about one-half in 1855, and about one-third in 1859. The proportion of personal property taxes in 1859 to the total revenue decreased in comparison to its proportion to the total revenue in 1855 because of the greater amounts received from taxes on real estate and license taxes.

XXX. The Personal Property Tax—B. Its Operation During the Period of Its Development.

Unfortunately, the records are not complete enough to afford a minute examination of the operation of the personal property tax prior to the War between the States. The statistics of assessments and receipts are so scattering as to allow no basis of exact comparison, and the reports to the State government do not contain sufficiently detailed data to permit a study of the rates of valuation or of the inequalities in assessments by local officers. Only some general statements may be made from the occasional data and from complaints and recommendations appearing at intervals in official reports.

Until 1842 no invisible personal property was taxed; in that year, bonds were taxed at the rate of 2½ per cent. of their interest. Whether the first instance of taxation of invisible property operated successfully, it is impossible to judge because of the absence of any recorded observation of data. While all personal property taxed was specifically mentioned in the statutes prior to 1851, no failures to return the number of slaves, carriages, watches, plate, clocks, etc., were mentioned in the records, and the cases of carriages and gold and silver plate, where an *ad valorem* tax was imposed from 1824 until its general adoption in 1852, afforded no record of unequal assessments or of under or over valuations. Delinquencies in paying taxes upon articles duly enumerated, of course, are frequently